**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

CANDIDA STOKES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	**Civil Action No.**
THE CITY OF MONTGOMERY,	)	**2:07-cv-686**
ARTHUR BAYLOR, Chief of Police,	)	
BOBBY BRIGHT, Mayor, in	)	
their individual	)	
and official capacities,	)	
	)	
Defendant.	)	

PLAINTIFF'S EVIDENTIARY SUBMISSION IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT

COMES NOW Plaintiff, pursuant to Rule 56 of the Federal Rules of Civil Procedure and submits the following exhibits and evidence in support of her Motion for Partial Summary Judgment on her claim of interference under the Family Medical Leave Act ("FMLA"), 29 U.S.C.§ 2611, *et. seq*.

1. Plaintiff's Declaration
2. Deposition of Kevin J. Murphy
3. Deposition of Arthur Baylor
4. Deposition of John Carnell

5. Request for Family and Medical Leave of Absence

6. City and County of Montgomery Personnel Department Recommendation for Personnel Action (FMLA)

7. City and County of Montgomery Personnel Department Recommendation or Personnel Action (Administrative Leave With Pay)

8. Letter from Linda Holmberg, LPC of February 28, 2006

9. Report of David Schaffer, D.O., Ph.D of January 20, 2006

10. Memorandum to Chief Baylor From Major Murphy Requesting Administrative Leave for Plaintiff (January 24, 2006)

11. Memorandum to Colonel Baylor from Major Murphy Regarding Duty Status of Plaintiff (February 2, 2006)

12. Memorandum to Major Murphy from Corporal Stokes Requesting Transfer (Renewal) (February 22, 2006)

13. Letter from Dr. Harwood (February 27, 2006)

14. Memorandum to Chief Baylor from Michael Briddel (Executive Assistant to the Mayor) Recommendation of Termination

15. Deposition of Bobby Bright

WHEREFORE, Plaintiff respectfully submits this Evidentiary Submission in Support of her Motion for Partial Summary Judgment on her interference claim pursuant to the FMLA.

Respectfully,

/s/ Deborah A. Mattison
Deborah A. Mattison
Rachel L. McGinley
Attorneys for Plaintiff

OF COUNSEL:
WIGGINS, CHILDS, QUINN & PANTAZIS, LLC
The Kress Building
301 19th Street North
Birmingham, Alabama 35203
(205) 314-0500

CERTIFICATE OF SERVICE

I do hereby certify that on August 12, 2008, I filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Michael D. Boyle

s:/ Deborah A. Mattison
Of Counsel

EXHIBIT 1

Candida Stokes

v.

The City of Montgomery, Arthur Baylor, Chief of Police, Bobby Bright, Mayor, in their individual and official capacities

Declaration of Candida Stokes

My name is Candida Stokes and I reside at 2215 Taylor Mill Road, Elba Alabama 36323. I am a citizen of the United States and a resident of the State of Alabama. I am over the age of nineteen (19) and make this Declaration based on facts personally known to me. The following is true and correct to the best of my knowledge:

1. In February of 2002, I was hired as a police officer with the Montgomery Police Department (MPD). During my tenure at the MPD I received a promotion to Corporal and several merit raises. On February 25, 2004, I requested a transfer to the Detective Division. Since that time, I was on a list of persons requesting to transfer. On or about February 2, 2006 my request to transfer was denied.

2. As a Corporal in the Montgomery Police Department, I was responsible for performing the regular duties of a patrol officer as well as the supervisory duties I was assigned due to my status as a Corporal. My regular duties included patrolling my own route and making appropriate arrests and stops, and investigating misdemeanor crimes on that route. I was assigned my own police car and always carried my service weapon and my badge. My supervisory duties included performing roll call, inspecting officers and patrol vehicles at roll call, assigning patrol routes for officers on my shift, assisting in creating work schedules for shift officers, and training other officers. My supervisory

duties also required me to respond to certain types of calls during my shift which required a supervisor to be present and then completing the appropriate paperwork for those calls. For example, if a felony arrest or offense or an officer related incident occurred during my shift, I was responsible for going to the scene, assisting the responding officers, and putting the same information on the daily sheet and then notifying the chain of command. As Corporal, I was eligible for transfer and promotion to different divisions within the Department.

3. In May of 2005, my mother died. I had depression and was very upset by her death. I was also going through a divorce. At that same time, I was working third shift and trying to care for my daughter as a single parent. I was under a lot of stress and could not sleep. Often I would only sleep for a few hours during the entire day. I lost my appetite and often did not eat.

4. On December 19, 2005, I took several Tylenol PM tablets. Immediately thereafter I was hospitalized for approximately one week. Then, I completed an in-patient treatment program as well as an out-patient treatment program. At the end of the outpatient treatment, my doctor, Dr. Harwood, said I was ready to return to my job without any restrictions.

5. Before the scheduled end of my FMLA leave I presented my certificate of successful completion to the Department. The Department kept my copy of this certification. Since I had been released to work without any restrictions, I understood that on January 13, which was when my FMLA leave expired, I would return to my job as a Corporal. However, I was told that the Department would place me on Administrative

Leave with Pay while they figured out what to do with me. The Department never asked to contact my treating doctor, although I would have been happy to allow them to do this. Nor was I asked to present any further information from my doctor.

6. Instead, Department told me that I would have to undergo a fitness for duty exam by a doctor that they would choose for me. I went and spoke with Dr. Schaffer just like the Department requested. I believe this occurred on January 20, 2006.

7. Eventually, I did get to come back to work, but only in a very diminished capacity. I was put on the back desk. The Department told me I could not wear my uniform. They refused to allow me to wear my badge and my service weapon. It was very demeaning. At the back desk I could not do any of the things I used to do as a Corporal in the Patrol Division. It is common knowledge that placement on the back desk is seen as a sign that the officer has done something really bad. While on the back desk my duties were limited to taking telephone calls and stamping reports.

8. I went to Dr. Schaffer's office to get a copy of the fitness for duty certification he was supposed to complete for the Department and gave it to the Department. I also got letters from Dr. Harwood and Linda Holmberg confirming my fitness for duty without restrictions.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 12 day of August, 2008.

Candida Stokes

CANDIDA STOKES

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CASE NUMBER: 2:07-CV-686
CANDIDA STOKES,
Plaintiff,
vs.
THE CITY OF MONTGOMERY, ET AL.,
Defendants.

STIPULATION

IT IS STIPULATED AND AGREED by and between the parties through their respective counsel, that the deposition of Lieutenant Colonel Kevin J. Murphy may be taken before Sara Mahler, CCR, at the offices of Davis & Herrington, at 8650 Minnie Brown Road, Suite 150, Montgomery, Alabama 36117, on the 17th day of June, 2008.

DEPOSITION OF LIEUTENANT COLONEL
KEVIN J. MURPHY

IT IS FURTHER STIPULATED AND AGREED that the signature to and the reading of the deposition by the witness is waived, the deposition to have the same force and effect as if full compliance had been had with all laws and rules of Court relating to the taking of depositions.

IT IS FURTHER STIPULATED AND AGREED that it shall not be necessary for any objections to be made by counsel to any questions except as to form or leading questions, and that counsel for the parties may make objections and assign grounds at the time of the trial, or at the time said deposition is offered in evidence, or prior thereto.

IT IS FURTHER STIPULATED AND AGREED that the notice of filing of the deposition by the Commissioner is waived.

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CASE NUMBER: 2:07-CV-686
CANDIDA STOKES,
Plaintiff,
vs.
THE CITY OF MONTGOMERY, ET AL.,
Defendants.

BEFORE:
SARA MAHLER, Commissioner.

APPEARANCES:
DEBORAH A. MATTISON, ESQUIRE, of WIGGINS, CHILDS, QUINN & PANTAZIS, 301 Nineteenth Street North, Birmingham, Alabama 35203, appearing on behalf of the Plaintiff.
RACHEL L MCGINLEY, ESQUIRE, of WIGGINS, CHILDS, QUINN & PANTAZIS, 301 Nineteenth Street North, Birmingham, Alabama 35203, appearing on behalf of the Plaintiff.

APPEARANCES: (Cont.)
MICHAEL D. BOYLE, ESQUIRE, of THE CITY OF MONTGOMERY, 103 North Perry Street, Montgomery, Alabama 36104, appearing on behalf of the Defendants.
ALSO PRESENT: CANDIDA STOKES

* * * * * *

I, SARA MAHLER, CCR, a Court Reporter of Wetumpka, Alabama, acting as Commissioner, certify that on this date, as provided by the Federal Rules of Civil Procedure and the foregoing stipulation of counsel, there came before me at the offices of Davis & Herrington, 8650 Minnie Brown Road, Suite 150, Montgomery, Alabama 36117, beginning at 10:00 a.m., Lieutenant Colonel Kevin J. Murphy, witness in the above cause, for oral examination, whereupon the following proceedings were had:

LIEUTENANT COLONEL KEVIN J. MURPHY, being first duly sworn, was examined and

testified as follows:
COURT REPORTER: Usual stipulations?
MR. BOYLE: Yes, ma'am.
EXAMINATION
BY MS. MATTISON:
Q. Good morning.
A. Good morning.
Q. Is this the first deposition you've given?
A. No, ma'am.
Q. Okay. How many times have you been deposed before? Not testimony in court, just depositions.
A. Two or three.
Q. And what type of cases were the depositions?
A. One, I was the victim of a motorcycle accident, and I sued the guy that hit me; another one was a case for the city.
Q. Case against the city?
A. Yes, ma'am.
Q. Okay. And what was the -- How

long ago was that?
A. Against the city?
Q. Yes.
A. Thirteen, fourteen years ago.
Q. What type of case was it?
A. A wrongful death case.
Q. What was the outcome of that case?
A. City prevailed.
Q. Did it go to trial?
A. No, ma'am.
Q. Okay. Was it dismissed or do you know for certain whether it was settled?
A. No. It was not settled. The Judge found in our favor.
Q. What court was that in? State court?
A. No, ma'am. Federal court, Middle District.
Q. Okay. Who was the plaintiff?
A. Calvin Williams.
Q. Okay. Thank you. What about the third case?

A. I think those are the only two. I can't remember any other time I've given a deposition other than those two.
Q. Okay. Have you been named specifically as a defendant in any case?
A. Yes, ma'am. The one involving Mr. Williams.
Q. Okay. How about any other case?
A. No, ma'am -- Well, I get named in some from time to time because of my position, so I can't say with all clarity -- But I guess to answer your question, yes, I have been named as a defendant in cases against the city.
Q. Are you currently named in any case?
A. I believe I am. It's just the nature of my position.
Q. Okay. How many cases would you say you are currently named in?
A. I'd be guessing if I said. I don't know.

Q. Give me your best judgment on it.
A. Half a dozen, maybe.
Q. One of them by somebody by the last name of Hicks?
A. That case was dismissed.
Q. When?
A. Recently. I don't know exactly when. Within the last two, three months.
Q. What court was that case in? Was it state court or federal court?
A. Federal. I wasn't actually a defendant.
Q. Right. That's my question. I'm only asking where you're a named defendant.
A. I wasn't in that case.
Q. But right now you think approximately half dozen you would be named defendant?
A. Yes, ma'am.
Q. Are any of them employment

related?
A. One that I can think of in particular.
Q. Okay. What is the plaintiff's name in that?
A. Fannin, Lewis, and Flowers.
Q. What type of case is it?
A. They were dismissed from the police department, and I guess they're suing us because they got fired.
Q. Do they base it on race, sex, what do they base it on?
A. I don't remember.
Q. Are they African American?
A. Yes, ma'am. All three of them are.
Q. Okay. Now, my understanding is that dismissals from the police department, that the decision maker is the mayor; is that correct?
A. Yes, ma'am.
Q. Okay. Do you have any authority to actually dismiss an employee?

A. No, ma'am.
Q. And can I get, at some point, a job description? You have a job description; correct?
A. I'm sure there is one from personnel, yes, ma'am.
MS. MATTISON: If maybe somebody could fax it to us during lunch. Don't get up and go make a call right now.
MR. BOYLE: It's on the personnel board website. Did you ever get all those to print?
MS. MCGINLEY: We can. I wasn't aware that we wanted it. That is something we can print off the Internet.
MS. MATTISON: The only thing is I can't question about it. Maybe you could ask Kim --
MR. BOYLE: I can get it printed off. That's not a problem.
I just wanted to make sure you didn't ask for it and I didn't bring it.
Q. Okay. You're now a colonel;

is that correct?
A. Yes.
Q. And forgive me, I don't know the different levels, I just don't. And prior to that you were a major?
A. Yes, ma'am.
Q. I am assuming that colonel is a step up above major?
A. It is.
Q. When did you become colonel?
A. June 1st of '07.
Q. When you were major, what was your ability to make personnel decisions? I mean what authority did you have? I'm assuming you did not have the authority to terminate somebody?
A. That's correct.
Q. Okay. You could make recommendations, but you couldn't actually make the decision because, as I understand it, that decision-making capacity is solely with the mayor?
A. Yes, ma'am.

Q. And could you make hiring decisions on any level, by yourself?
These questions right now are all for the time that you were a major.
A. Yes, ma'am. When I was a major, we sat on what we call a staff, it was three majors. And a prospective employee would come in to be interviewed, and then the three would vote on whether to hire or not to hire. So I participated in the hiring process.
Q. Okay. And then what about discipline? Do you have the -- Did you have the authority to make decisions regarding discipline?
A. Yes, ma'am.
Q. Okay. And could you -- What sort of decision could you make regarding discipline?
A. As a major?
Q. Yes. Solely as a major.
A. Usually it would encompass approving what my subordinate supervisors

had decided to do. A lot of times discipline is handled, as we refer to it, on the shift level, and they would just report to me that we gave this officer a letter of reprimand or we took their car away for a week; and I would approve, say okay, that's fine, based on the circumstances of the violation, I think that you made the right decision.
Q. All right. Now, did you -- Would these approvals have been -- Would these approvals or disapprovals have been without the convening of the whole process for determining guilt and innocence through, like, internal investigations?
A. Minor infractions, yes.
Q. Okay. So all minor infractions are basically done without internal investigation -- involvement; is that correct?
A. Yes, ma'am.
Q. What is the discipline -- What -- Who makes the decision, first of

all, as to whether something is a minor infraction or a major infraction?
A. There is some information in the blue book as to what encompasses a minor rules violation versus a serious one.
Q. Right.
A. Really the rank-and-file supervisors make a determination and report it to their superiors. So I would say it's really done at the line supervision level when they receive a complaint or they're aware of an incident. Sergeants and lieutenants are trained to recognize what is a minor rules violation and what is serious.
Q. Okay. So if something goes through the internal investigations, then there has been a determination by somebody at the lower level, the line level as you call it, that something is a -- not a major infraction, it's a minor infraction?
A. Could you repeat the question?
Q. Sure. If there is a -- I'm sorry.

Essentially, if something is handled by internal affairs, like an investigation, a trial, a trial board hearing, or something of that nature, then a determination would have been made, essentially at the line level, that the allegation or the infraction involved is a major infraction and not a minor infraction; is that fair to say?

A. Yes, ma'am.

Q. Okay. Because I've been reading several personnel files. It appears to me that minor infractions do not go through the internal investigation?

A. Yes, ma'am. That's correct.

Q. All right. And I've also looked at the listing of things that are identified as major and minor infractions in the blue book, as you call it. Just so that we're clear, I want to make sure that the blue book is the same book that I'm thinking is the blue book, since mine didn't have a color.

Is the blue book also -- Let's mark this. We're not going to look through it right now, at least, I just want to make sure I've got the right book.

Is Plaintiff's Exhibit 1 the blue book? Is that the cover of the blue book?

(Whereupon, Plaintiff's Exhibit No. 1 was marked for identification.)

A. Yes, ma'am.

Q. That's not the whole blue book, I'll represent, obviously, because the whole blue book is probably three inches thick.

A. Yes, ma'am.

Q. So Plaintiff's 1 is the blue book. Okay.

So would you agree with me that the rules or that the types of violations that are listed in the blue book -- and if we could just -- I'll ask you some questions about that in a second.

But the types of violations in the blue book are relatively general descriptions of violations. They don't actually correlate with the particular rules; is that fair to say?

A. Yes, ma'am.

Q. It sounds to me like there is some discretion that's used at the line level in determining whether something is a minor violation versus a major violation; is that fair to say?

A. They have to report all infractions to the chain of command. I have seen instances where a commander overruled a subordinate supervisor: If the subordinate supervisor said, well, this is a minor rules violation, and the commander said I disagree, that's a major rules violation, we're going to ask for an investigation.

Q. I understand. But my point is -- and I guess let me ask the question this way. There's some discretion that is used, either by the line level or that

supervisor -- the supervisor of the line level, in determining what is a minor infraction versus what is a major infraction?

A. There is.

Q. Okay. If something is a -- Strike that. Let me finish the train of thought that I had.

In terms of your ability to make decisions regarding discipline, my understanding is that you said that you have the authority to either approve or disapprove the decision, and we're back when you were a major, that you had the authority to either approve or disapprove the line level supervisor's decision about discipline on a minor -- would be on a minor rule violation?

A. Yes.

Q. Okay. And it sounds like also at that time you could have made the decision if someone came and said -- if one of your line supervisor's said, hey, I think

this is a minor violation, that you would have had the authority to say, no, I think this is a major violation?
A. Yes.
Q. Okay. Did you have any other authority involving discipline other than what you've just testified to?
A. That's a broad question. I mean, any other authority.
Q. In terms of giving out discipline.
A. I would have to say at this time, no, but. . .
I mean it encompasses -- I mean every situation is unique, so you can't throw a broad blanket over everything.
Q. Well --
A. I guess I don't understand your question.
Q. Let me ask it another way. That's fair.
My understanding is when you were the major involving discipline of the

people under your command, you had the authority to approve what your line level supervisors said should happen as discipline, and obviously approving means disapproving, with regard to minor rule violations?
A. Yes, ma'am.
Q. Okay. And so you could either say that sounds right or you could overturn it?
A. Yes, ma'am. And I would always report the matter to my boss.
Q. Okay. And your boss, when you were a major, was what? Who was that person?
A. Chief Baylor. We didn't have a deputy chief at that time.
Q. Okay. And the other thing you could do when you were a major is you could overrule the determination as to whether a rule infraction was a major rule infraction or a minor rule infraction?
A. Yes, I could do that.

Q. Okay. Now, out of curiosity, the decision to dismiss Fannin, Lewis, and Flowers, was that made while you were a major or a colonel?
A. Major.
Q. Okay. Were they alleged to have violated some rules?
A. Yes, ma'am.
Q. Was it the same rule that they were alleged to have violated?
A. The same rule?
Q. Yeah.
A. Yes, ma'am.
Q. Okay. What rule -- I'm not really trying to get into the facts so much of their case, but I want to get a sense of how this works in operation.
What rule were they alleged to have violated? What did they do allegedly?
A. The rules -- There were more than one rule that they were charged with. But I do remember that one of the rules that they were charged with was truthfulness at

all times.
Q. Okay.
A. And the other rule was duties of responsible employment, engaging in any activity that would reflect negatively upon the police department. And there's more to that rule violation, the duties of responsible employment, but that kind of surmised the first sentence of that.
Q. Okay. In a nutshell, what did they allegedly do?
A. They jumped on an officer at the back door of headquarters and removed his pistol from his holster and then disassembled the weapon and handed it back to the officer.
Q. Now, that sounds to me like kind of a no-brainer major rule violation, if in fact that happened?
A. I would agree with that, yes, ma'am. It's dangerous.
Q. Okay. And so that -- The allegations against these gentlemen then

went to internal investigations?
A. Yes, ma'am.
Q. Okay. What do they claim, if you know -- Their case has been dismissed, you said?
A. No, ma'am. Not that one.
Q. You're right. Your deposition has not been taken in that?
A. No, ma'am. I don't know anything more than they brought litigation against the city.
Q. Okay.
A. Nobody's --
Q. But you're named as a defendant?
A. Yes, ma'am.
Q. What would your authority have been with regard to them?
A. I was the division commander, and they were officers under my command.
Q. Sure. My understanding is you would not have had the authority to decide to terminate them; is that correct? It went

through internal investigation?
A. I made the recommendation that they be terminated.
Q. Okay. And at what stage -- At what point in the process did you make the recommendation that they be terminated?
A. The internal affairs file was given to me.
Excuse me. I review the facts and circumstances of the file, determine what evidence, witnesses exist, and then I bring charges against the officers.
Q. Okay. All right.
Okay. And did you -- Tell me how the process works in operation. Allegedly a rule is broken, and a line level supervisor makes a determination as to whether that -- whether that is a major violation or a minor violation; is that fair to say?
A. Yes, ma'am.
Q. Okay. Actually before I go through this process, it would probably be

helpful if you told me: Now who do you report to? Do you still report to a deputy chief or do you report to chief?
A. Chief.
Q. Are you a deputy chief?
A. Yes, ma'am.
Q. As the colonel, you're the deputy chief?
A. Yes, ma'am.
Q. Is there more than one?
A. Yes, ma'am.
Q. Who is the other deputy chief?
A. Lieutenant Colonel W.S. Thompson.
Q. All right. Okay. And before your promotion, you were over the -- I don't know how to say this correctly, so you can help me. You were over essentially the active duty, the police officers, as the public typically thinks of police officers; is that correct?
A. Yes. I was over the patrol division. I guess you could say my title

was division commander of the patrol division.
Q. Okay. Have you ever had discipline issued against you? It seems like everybody based on the -- I've never seen so much paperwork in my life, to tell you the truth. It seems like everybody in the whole police office -- except for maybe not Chief Baylor. It looks like he never did anything wrong, including never go over -- went over a cone in the road or anything like that. But did you ever have any discipline?
A. I've been written up a couple of times in my career.
Q. Okay. For what?
A. Wrecked a motorcycle and didn't report it -- I reported it, but I didn't report it in a timely manner.
Q. Okay.
A. I was written up for using profanities once at a another officer.
Q. How long ago was that?

A. Which one?
Q. The profanities against the other officer.
A. Five years ago.
Q. Anything else?
A. No, ma'am.
Q. All right. So your -- Before your promotion, the line of -- the chain of command was the chief and then you?
A. Yes, ma'am.
Q. And then who was under you?
Let me ask it this way. In Ms. Stokes --
MS. MATTISON: I'm sorry, what's your current title?
THE PLAINTIFF: Deputy --
Q. In Deputy Stokes position, what was the line of command? There was chief, then there was you, and then who was under you?
A. I'm trying to recollect, because I had three or four assistants. And when Deputy Stokes --

Q. Could it have been Captain Essex?
A. He was one of my captains, yes, ma'am.
Q. So let's assume that Deputy Stokes said that was her supervisor. Would not chain of command then have been Deputy Stokes, Captain Essex, and then you?
A. Well, no, ma'am. Because she was on a shift, she had sergeants, lieutenants, patrol, a shift commander.
Q. Would Essex have been above those people?
A. Yes, ma'am.
Q. So the rules and procedures that governed discipline basically were the same rules and procedures back in '05 as they are currently; is that correct?
A. Yes, ma'am.
Q. Okay. So help me understand what the rules and procedures are in operation. My understanding is that -- to go back, a determination is made as to

whether an infraction is a major infraction or a minor infraction, and that's done by line supervisors typically, with an approval by you; is that --
A. Yes.
Q. Let's assume it's a major, what happens then?
A. I'm not following you. Let's assume --
Q. Let's assume that an officer -- I'm trying to find out generally what the process is. Let's assume an officer allegedly engaged in some rule violation that was a major offense. After a determination has been made, yes, it's a major offense, then what happens?
A. The letter is written to the chief of police requesting an investigation.
Q. Okay. Then what happens?
A. The process has changed since Deputy Stokes. I just want to make sure that I'm doing it according to when Deputy Stokes' incident occurred.

Q. Okay. I thought I just asked you a couple of minutes ago is the procedure for dealing with discipline the same now as it was back in 2005. I thought you said yes?
A. Well, I'm sorry. It's changed, because internal affairs has been moved to the legal office at city hall. So there have been some changes.
Q. All right. Let's talk about it then when Deputy Stokes was --
A. Very well.
The division commander writes the chief of police a letter and requests an investigation on the officer. The letter is broad, it's not very specific, and it doesn't necessarily encompass -- Because, see, you don't know what you're going to find in the investigation. So you're just asking for the matter to be investigated because what possibly may come out of the investigation is more than what you even know at that point in time. So it's a very

broad letter.
Q. Okay. All right. And then what happens?
A. The chief --
Q. Let me stop you for a second just to clarify.
So when the determination is made whether the rule violation is a major or minor offense, generally that is made really without investigation. The investigation happens after that?
A. Yes, ma'am.
Q. Okay. All right. Fair enough. So then what?
A. The chief either approves or disapproves the matter being investigated. If he approves it, he sends the matter to internal affairs.
Q. Now, are there forms that are used or supposed to be used? If the chief is going to -- Well, the letter to the chief asking for the investigation, is that a form letter or is that in writing or is that

oral? I think that it's in writing, but I'm not positive.
A. Let me go back.
Q. Okay.
A. The chief disapproves or approves the matter to be investigated, then he sends a letter to the city attorney asking them for their advice and guidance.
Q. Okay. So the letter to the chief asking for an investigation -- I'm sorry, you did say there was a letter to the chief and that the letter was broad and specific.
Is the chief's approval or disapproval in writing or is that verbal?
A. Well, he doesn't actually write or call the major and say I approve or disapprove. His -- I guess his tacit approval would be the letter he sends to the city attorney.
Q. So it sounds to me like once the letter goes to the chief, he tacitly approves it, because he then sends a letter

to the city attorney asking for guidance in submitting it to the city attorney?
A. Yes, ma'am.
Q. If he doesn't approve it, the matter could die there, and there would be no more word of it?
A. I never encountered that.
Q. Okay. You've never had a situation where the chief of police has not agreed to submit the matter to the city attorney?
A. Correct.
Q. Okay. All right. So what happens then after the city attorney?
A. He sends the chief a letter directing him to have it formally investigated by the internal affairs unit, keep him apprised of the investigation.
Q. All right. Then I assume the investigation occurs?
A. Yes, ma'am. It goes to the Internal Affairs Bureau, and it's assigned to an investigator.

Q. Now, what is included in the investigation? How is it investigated?
A. Well, the investigator interviews witnesses; if there's any evidence, as far as physical evidence, they collect that. Basically the who, what, when, where, why, and how of the incident.
Q. Okay. Is there a record kept of that?
A. Yes, ma'am.
Q. Okay. Then let's -- If the investigator -- Does the investigator have the authority to say, you know what, I've investigated this, and I don't think there's anything to it?
A. No, ma'am.
Q. Okay. So the investigator's job purely is to collect evidence?
A. Yes, ma'am.
Q. Okay. And then what does the investigator do with the evidence?
A. They compile a file, a copy is sent to the division commander for review.

Q. All right. Then what?
A. The division commander reviews the file and determines whether or not a rules violation occurred. They, I guess, weigh the facts and evidence in the file.
Q. Okay. So then at that level, does the division commander have the authority to say, you know what, I'm looking at this file, and I just don't see a rules violation?
A. Yes.
Q. Okay. I'm assuming, though, that the mayor has the authority to overturn that -- that the chief and ultimately the mayor would have the authority to overturn that. Whether they exercise that authority is another question. But if you were to determine that something was not a rules violation and the chief happened to be aware of the situation and he thought you were wrong, would the chief have the authority to say, you know, I think we need to proceed to a hearing on this?

A. Absolutely.
Q. Okay.
A. He is the head of the department.
Q. Okay. Because if you found a rules violation at that point, you couldn't say, fired; rules violation, fired. You didn't have that authority?
A. No, ma'am, I didn't. I still don't.
Q. Okay. So let's assume that the division commander finds a rules violation after looking at the investigation. Then what happens?
A. If a rules violation is evident, then the division commander types a letter of charges and specifications to the employee. They get a trial board date from the chief's office, which involves a chairman and two majors. There's a host of paperwork that goes along with the charges and specifications. And once that's compiled, you serve the employee with a copy

of the investigative file along with pertinent paperwork. They sign for it, acknowledging receipt of it; they're given a trial board date.
Q. Okay. So the employee is generally -- is given the charges and specifications and the file?
A. Yes, ma'am. A copy of the file.
Q. What's in the file?
A. Statements from witnesses, any evidence that may exist.
Q. Okay. Then what happens? You set a hearing date?
A. Yes, ma'am. Which we refer to as a trial board date.
Q. Okay.
A. The charged employee has an opportunity to exercise their due process. They're allowed to defend their case to the trial board.
Q. Now, at that point, are you kind of like the prosecutor? Are you the

person, as the division commander, who's kind of saying, here, this is a rules violation and here's why?
A. Yes, ma'am. I don't know about the word prosecute, but they present the case, yes, ma'am.
Q. Okay. So the division commander presents the case?
A. Yes, ma'am.
Q. Okay. And then that's recorded, the trial -- the trial board hearing is recorded?
A. Yes, ma'am.
Q. And then the trial board makes a determination?
A. Yes, ma'am.
Q. Is it solely the three people on the trial board that make the determination or do you have any input into -- Other than what happens during the hearing, does the division commander have any input into the trial board decision?
A. Other than presenting the

case, no, ma'am.
Q. Okay. Then what happens? So there's a decision made?
A. Right. They determine whether the charge or charges should be sustained or not sustained. If they are sustained, then they give a recommendation of punishment to the chief of police.
Q. Now at that point, do you -- is it up, then, to the chief, as to whether to approve the decision of the trial board, or do you then have some additional authority to jump back in and say, hey, chief, they found them not sustained or they found this was not sustained, but let's go ahead and sustain it anyway?
A. No, ma'am.
Q. Okay. So you're done at that point?
A. Yes, ma'am. Once the trial board renders a decision, I'm out of it.
Q. Okay. Now, if a determination -- if there is a decision made

not to sustain a charge, does the chief have the authority to overrule that?
A. Yes, ma'am. And the paperwork that the charged employee receives from the division commander, it's very specific that the chief has the right to either approve, reduce, or increase the level of discipline.
Q. This is after the decision?
A. In both instances.
Q. Let's just stick with after the decision, though. After the decision, the chief has the authority to increase or decrease the discipline?
A. Yes, ma'am.
Q. Does the chief have the authority to do anything else other than increase or decrease the discipline imposed by the trial board?
A. I don't understand your question.
Q. Well, if the -- if the trial board said, I find that this rules violation is sustained, and we're going to recommend

suspension, anything, would the chief have the authority to say, you know what, I know you sustained this rule violation, but I don't think it really was a rule violation, and I'm going to find it's not sustained?
A. Yes, ma'am. The chief has that authority.
Q. Does the chief have the authority to say, you know what, you didn't sustain this rule violation, but I'm going to find it was a rule violation anyway?
A. Yes, ma'am.
Q. Is there any -- Do you know whether there's any written guidance or any -- anything other than subjective judgment? Is there anything that the chief goes by in terms of determining whether to approve the findings and the recommendations of a trial board?
A. None that I'm aware of.
Q. Okay. All right. Let's assume that the trial -- that there is a determination made to impose discipline.

What's the next step? Obviously you notify the employee.
A. Yes, ma'am. They have --
Q. So the employee wants to say I didn't do it or it wasn't a rules violation, then what's the next step?
A. They have an opportunity to meet with the chief and then --
Q. Are they given that notice of that right in person or -- or are they given notice of that notice in writing or how does that work?
A. It's not in writing and it's not always exercised.
Q. What do you mean it's not always exercised? Sometimes the employees don't get the chance to meet with the chief of police?
A. They can request it.
Q. Is that written down anywhere that they can request it?
A. I don't know.
Q. Because I didn't see it in

Plaintiff's Exhibit 1.
A. I don't know.
Q. Okay. What's the next step after -- Let's assume an employee doesn't know that they can meet with the chief and they don't meet with the chief, then what happens?
A. Well, it's been my experience that employees are told after the trial board has rendered a decision, they're told by the chairman of the trial board that they have an opportunity to meet with the chief. But I have seen instances where the chairman of the trial board did not convey that.
Q. Okay. All right. Let's assume a meeting doesn't happen with the chief, what's the next step?
A. They have an opportunity to appeal the decision to the mayor's office.
Q. And how does that work? What happens? Is there another hearing?
A. Yes, ma'am.
Q. And who's at that next

hearing?
A. One of the mayor's representatives, one of his executive assistants actually conducts the hearing.
Q. I'm assuming the decision itself is made by the mayor?
A. Yes, ma'am.
Q. Okay. So the assistant basically functions like a fact finder to give information to the mayor?
A. That is my understanding.
Q. Okay. At the second hearing, would you be -- As the division commander, would you be at the second hearing -- what's the formal -- is it called mayor's hearing?
A. Yes, ma'am.
Q. Would you come to the mayor's hearing?
A. Yes, ma'am, I did.
Q. All right. And how was that hearing different, if at all, from the trial board hearing other than the fact that it's the executive assistant for the mayor who's

listening to the evidence?
A. The attorneys ask questions. If the employee's represented by an attorney, they're -- they participate, I guess you could say. The attorneys take over, so to speak.
Q. Okay. And then what happens after that, then that information is given to the mayor, and the mayor makes the decision?
A. Yes, ma'am.
Q. Now, would the mayor typically review the file in making a decision? I'm assuming that there is a file that travels with this process or some record of what happens down below?
A. I would assume so, but I don't know. You would have to ask the mayor.
Q. Okay. Is that basically the process? I mean, I know that there is some stuff after it, but I'm just getting up to the mayor's hearing and a determination is made by the mayor?

A. Yes, ma'am.
Q. Okay. All right. Now, during this process, based on my review of many, many, many files. It appears to me that by and large, the police officer's status during that time is that they may be placed on the back desk or they may just continue working; is that correct?
A. It depends on the recommendation.
Q. The recommendation -- At what process -- Actually before I ask this question, so it sounds to me like that is correct, that a police officer may continue working or they may be on the back desk?
A. Yes.
Q. Okay. And if they're on the back desk, what typically are they doing back there? What are they doing on the desk, administrative work?
A. Yes, ma'am.
Q. Are they typically in uniform as I understand?

A. That's situational. It depends on the circumstance.
Q. But typically the person on the back desk is in uniform is my understanding --
A. Yes.
Q. -- based on the files that I've read.
A. Yes.
Q. Okay. Now, you said that whether the person continues working or is on the back desk is a decision that is made based on, I think you said, the recommendation; is that right?
A. Yes, ma'am.
Q. All right. Now at what stage does that recommendation come in? I would assume pretty early on.
A. Yes.
Q. And who makes recommendation?
A. The division commander to -- I'm sorry, the recommendation for what?
Q. As to whether to put somebody

on the back desk doing administrative work or continue working as an officer?
A. Well, our policy is if the charged employee is recommended for dismissal, we take them off the streets and put them behind the desk.
Q. And who makes that -- that would be your call is what I'm assuming, as the division commander?
A. Well, it's in congruent with if they're charged with a rules violation and the recommendation is dismissal, the policy is that they be removed from the streets and placed on the desk, so it encompasses that decision. I mean it --
Q. When is a determination made as to whether a person will be recommended for dismissal? And I'm going back up to the top where we're first looking at whether it's a major offense or a minor offense, and then there's a letter to the chief of police regarding the investigation, at what point is a determination made that this person is

going to be recommended for dismissal?
A. After the file is reviewed and a charge is made against the employee, when the major is formulating the charge against said employee, then they make a determination as to terminate, dismiss. It's a recommendation.
Q. Okay. And so I'm just trying to figure out during -- would that be after the chief approves?
I've got termination, major/minor offense, then there's the letter to the chief of police suggesting an investigation, and the chief -- and just yell stop -- tell me when we're reaching the point that there would be a determination as to whether recommendation for dismissal would exist.
The chief then either tacitly approves, or likely will tacitly approve by sending the matter to the city attorney for guidance. The city attorney then sends the letter to the chief to have the

investigation done. The investigation -- There's an investigation done and the investigator collects evidence and interviews witnesses, and then the complete file is sent to the division commander for review, and the division commander determines whether a rule is violated. And I'm guessing, but tell me if I'm wrong, that that might be the time that the division commander determines whether to recommend dismissal?
A. Yes, ma'am. Once the division commander determines what policy, rule, regulation was violated, then they in turn make a recommendation for punishment based on the rule violation.
Q. Okay. And I'm assuming you have discretion when you make that -- that's a judgment call to determine what type of discipline to seek?
A. Yes.
Q. Okay. And so you had told me before that if there was a rules violation,

then there would be more specific charges specified to the employee and this is when the trial board would get set up. Would the employee be notified at that time whether there was a determination or a recommendation for dismissal?
A. Yes, ma'am.
Q. Okay. So when the employee is notified that there's going to be a rules -- that there's going to be a trial board basically on a rules violation, they know that their termination is something that's a possibility, that it's being recommended that they be terminated?
A. Yes, ma'am. And they sign for that paperwork.
Q. Okay. Now, I don't have your employment -- I'm sorry, your job description, but I've been through this enough times with enough employees that I think I have a pretty good sense of what your duties encompass.
As the division -- the

division commander, you basically had the authority -- you had personnel authority, or personnel responsibilities, for the police officers; is that correct?
A. Personnel authority?
Q. I didn't ask that very well.
Part of your job was to oversee personnel issues among the employees under you?
A. Yes. Yes, ma'am.
Q. Did you have any budgeting responsibilities?
A. Yes, ma'am. Requesting.
Q. What other large categories of responsibilities did you have?
A. The daily operations of the patrol division, insuring that there was adequate strength on the streets. The patrol division at the time would fluctuate between two hundred to two hundred and thirty officers, and it's not realistic to say that I supervised two hundred and thirty people; I really only supervised probably

four people, the captains. So I really depended on a lot of people to do their job.
Q. Right. But you were the bottom line for the -- at least -- I mean, were you the head of your own shop. You had to report to someone else, but you were the person who was responsible for assuring the personnel issues among the people below you?
A. Yes, ma'am.
Q. It's kind of like the head of the corporation, or the vice president of the corporation, they wouldn't have their job very long if they said, well, I really tried, but --
A. Yes, ma'am.
Q. Okay. And I'm assuring -- I mean, I'm assuming that you were also responsible for assuring that the laws, federal and state laws, relating to employment were complied with within your division, you had the overall responsibility for that?
A. Yes, ma'am. To a certain

degree. That's a broad question, but --
Q. Okay. Do you -- Have you been given any training on what the Americans with Disabilities Act requires?
A. Very limited.
Q. Okay. What do you understand that the ADA -- I'm assuming you're not a lawyer?
A. No, ma'am.
Q. Okay. What do you understand that the ADA requires or forbids as it relates to employment?
A. I don't know enough about ADA to really answer that question. I know that we have people in the city that handle that for us. ADA issues, when we encounter them, are directed through the attorneys and the risk manager. I'm not learned enough in ADA to really give an answer. I'd be guessing.
Q. Okay. What about the Family Medical Leave Act, what do you understand the Family Medical Leave Act requires or prohibits? Have they given you any training

on that?
A. I mean fundamentals like employees are given twelve weeks of leave. We -- I mean, people call in sick and they're out three days. We've got to do FMLA, and we do a lot of them. I mean the paperwork is pretty high as far as that goes.
Q. Okay. Do you know -- What's your understanding of what entitles someone to be on Family Medical Leave? Is it that they're out three days?
A. That they're --
Q. Or having a child or --
A. Right. That they have so many weeks to be away from the job and that their job is secure; that they can have their job back when they come back.
Q. Okay. Do you understand -- So you understand that when employees come off of Family Medical Leave, that they're entitled to have their jobs back?
A. Yes, ma'am. But, again, I'm

not an expert in ADA or Family Medical Leave.
Q. Okay. Do you understand that they're -- I mean, do you have an understanding of any reason why an employee could not have their job back when they're off of Family Medical Leave, when they come off of Family Medical Leave?
A. I don't know. We rely on Ms. Montoya over personnel and John Carnell, safety director, and the attorneys to assist us in those type decisions and situations.
Q. Now, with regard to Ms. Stokes, did you talk to John Carnell at all about her continued employment with the city or talk with her at all?
A. Talk with him?
Q. Yes, I'm sorry. Thank you.
A. Yes, I did.
Q. Tell me the gist of your conversations with Mr. Cornell. Is he your only risk management person?
A. That I'm aware of, yes, ma'am.

Q. Okay.
A. He, obviously being the city risk manager, handled the aspect, I guess, of Deputy Stokes' FMLA or ADA, whatever the case may be. Mr. Carnell told me on the phone, and I asked him also to appear at her trial board. Mr. Carnell conveyed to me that he felt keeping her as a police officer was a liability and a risk.
Q. Okay. It sounds like you agreed with him?
A. Yes, ma'am.
Q. And is that basically what -- is that -- in reliance on Mr. Carnell -- am I pronouncing right?
A. Yes, ma'am.
Q. -- is that what led you to recommend Ms. Stokes' dismissal?
A. No, ma'am.
Q. What did he tell you was a liability or concern about keeping Ms. Stokes? What was the concern?
A. Because she had attempted to

take her own life, she posed a risk to the safety of the officers and the public.
Q. Okay. Was there a concern that she might try it again?
A. Yes, ma'am.
Q. A concern maybe that she wasn't stable enough to do her job?
A. Yes, ma'am.
Q. Were you concerned or was he concerned or did he convey that he was concerned that her depression really might interfere with her ability to use good judgment or her -- I guess mental status might interfere with her ability to use good judgment?
A. No, ma'am. He never said that.
Q. Okay. What did he say?
A. What I previously stated, that because she attempted to take her own life, she posed the risk and a liability to the city and to the officers and to the public.
Q. Okay. And my understanding is

your thought -- or his thought was that even a slight risk would be too much of a risk?
A. Mr. Carnell never used that word, slight. He just said risk.
Q. Some risk. Because there was no way to know that she might try it again, just that there was a possibility she might try to commit suicide again?
A. I'm sorry. I don't understand your question.
Q. My understanding is that Mr. Carnell indicated that -- Of course, nobody knows whether Ms. Stokes would try to commit suicide, but there was the fear that she might try to commit suicide again, and that that made her the risk and liability?
A. You will have to ask Mr. Carnell that question. I don't know how he would answer that.
Q. What was your concern?
A. In as much as what? My concern of what?
Q. About Ms. Stokes being a

liability or risk. You said you also had the concern, what was your concern?
A. I felt that she posed a risk to her fellow officers and to the public because she had tried to take her own life.
Q. And what was the risk? I guess that's what I'm trying to get at, what was the risk?
MR. BOYLE: Object to the form. Go ahead.
A. If she were to find herself in a dangerous situation, or a life-or-death encounter, that she might not act appropriately.
Q. Like give me an example.
A. Faced with a deadly force encounter, and she wanted to end her life, she would allow herself to get shot and killed.
Q. I see.
A. And if she had a partner, an officer with her, they haven't made that choice, and they very well may get killed

too.
Q. Now, is this something that you thought or did Mr. Carnell also indicate that he thought that also?
A. We had a conversation, and he agreed with what I just said.
Q. Okay. Did you consider any other potential risks that she might have other than if she were to find herself in a life-or-death situation that she might not act appropriately?
A. That's a broad question. I'm not sure exactly what you're asking.
Q. Did you consider any other potential risks or liability other than that she might be in a situation like you just described?
A. Well, I mean, I guess if you wanted to end your life, the possibilities are numerous. But I can't say that I really thought of how someone in that state of mind would try to kill themselves.
Q. Okay. Did you talk with any

of her doctors or do you know whether anybody talked with any of her doctors about the potential risk or potential liability?
A. I did not.
Q. Do you know whether anyone else did?
A. I don't. I left that to Mr. Carnell.
Q. What, if anything, could Ms. Stokes have done to put you at ease that she wasn't going to be a risk or a liability? It sounds like probably nothing.
MR. BOYLE: Object to the form.
A. I can't think of anything.
Q. Okay. Do you know if she's working now as a police officer?
A. Yes, ma'am. I was told.
Q. Okay. How do you feel about that?
A. I'm happy for her. But, I mean, I like Deputy Stokes, and she's a good officer, and it was a very tough decision to

make. I took no pleasure in it, but I had to do what I felt was right.
That's fine that she's working for another agency, but personally I would not hire her. I would have to separate my personal feelings from my professional feelings. And I think she's a good person, but I would not feel comfortable having her working for my agency.
Q. Because she attempted suicide?
A. Yes, ma'am.
Q. How did you find -- You knew that she committed suicide -- or tried to commit suicide it looks like, based on the documentation, almost within hours -- well, really within hours of it occurring; is that fair to say?
A. Yes, ma'am. I received a phone call.
Q. Who'd you receive the phone call from?
A. I'm sorry. I don't remember.
Q. Someone in the chain of

command?
A. Yes, ma'am.
Q. Do you remember what they said?
A. That she was at the hospital, had taken an overdose of pills and that she was in bad shape. They said she was going to go to ICU.
Q. Okay. When she was placed on Family Medical Leave -- And you recognize that she was placed on Family Medical Leave?
A. Yes, ma'am.
Q. So when she was placed on family medical leave, it was already known -- the department, and I'm not saying everyone in the department, but you at least already knew that she had attempted the suicide?
A. Yes, ma'am.
Q. Did you talk with Chief Baylor at all or did you report -- Strike that.
What do you remember the next thing you did with regard to after finding

out that she had attempted suicide? What do you remember the next thing you did with regard to Ms. Stokes -- or Deputy Stokes after you found out that -- Were you called in the middle of the night?
A. I think it was early morning.
Q. Okay. Do you remember what action, if any, you took? Did you notify anybody? Did you do anything with regard to Ms. Stokes?
A. Sure. I told the chief.
Q. What was his reaction?
A. Okay. He didn't have one. I was on the phone with him, he just said okay. He asked how she was doing.
Q. Then what do you remember happening?
A. We were in staff, and the chief and I had a discussion about her trying to take her life. And I told the chief that I didn't think you could be POST certified if you attempted suicide.
Q. What is POST certified? Is

that having to do with guns?
A. No, ma'am. P-O-S-T-C, Peace Officers Standards and Training Commission is who certifies all police officers in the state to be sworn law enforcement officers.
Q. All right. I'm sorry, I interrupted you. You told the chief you didn't think she could be POST certified?
A. Right, if she tried to take her life. And I told the chief that I was going to call POST that morning and find out.
Q. It sounds like -- Were you already at this point a little concerned about potential liability or risk?
A. Yes, ma'am.
Q. Yeah.
A. I don't know if that was --
Q. Foremost in your mind?
A. Yes, ma'am.
Q. But you had concerns -- It sounds like you were concerned immediately that we might not be able to bring her back

because we might have some liability?
A. Yes, ma'am.
Q. All right. Okay. So you said you're going to call POST? Is that how you pronounce it, POST?
A. Yes, ma'am. We call it POST.
Q. And did you call them?
A. I did.
Q. What did they say? Do you remember who you talked to?
A. I'm sorry. I don't remember who I talked to. But the lady on the phone -- I identified myself, and I asked her can an officer be POST certified if they've attempted to kill themselves. And her response was POST will not certify you if you attempted suicide. However, once you are POST certified, it is up to the individual department to deal with it in their own rules and regulations.
Q. Okay. Let me ask you this. -- Well, I'm -- I'll go back and ask you later.

So then what did you do after you spoke with that person?
A. I told Chief Baylor that I was going to request an investigation on Deputy Stokes.
Q. Whose idea was requesting the investigation, his, yours, or both?
A. Mine.
Q. Because you were concerned about -- It sounded like if POST wasn't going to certify somebody who had attempted to commit suicide, but it was up to the department to deal with it, at that point you would have had some concerns about potential liability with her coming back; is that fair to say?
A. I can't say that POST requirements necessarily dictated my next move. It was more information to add to what I already had. If POST would have said, sure we'll certify people that have attempted suicide, I still would have asked for an investigation because of our rules

and regulations.
Q. And what are those? I mean, what was your concern there?
A. Engaging in any activity that would reflect negatively upon the department or affect the individual's ability to perform their duties.
Q. Is that the rule that you were investigating -- that you asked that she be investigated on?
A. Yes, ma'am. One of them.
No I take that back. My initial letter to the chief was duty to remain fit. The charge that I just quoted was a charge that she was actually charged with in addition to duty to remain fit, after I read the investigative file.
Q. Okay. So what did she do, in your opinion, that meant that she had violated a duty to remain fit?
A. Attempting to take her own life.
Q. Anything else?

A. No, ma'am. I mean, that was the matter.
Q. Okay. We've looked at a bunch of files, and we have a printout from everybody that's been disciplined from 2002 on, I think. We didn't see anybody else who'd ever been charged with violation of the duty to remain fit rule. Are you aware of anyone?
A. No. No, ma'am.
Q. Okay. And you would agree with me, would you not, that even though there are some officers that have alcoholism that is not controlled and some officers that are determined to abuse either prescription drugs or illegal drugs and that those persons are allowed -- according to policy, those persons are allowed to remain working, if they promise to get help?
A. I'm not aware of anyone at MPD that has -- I'm not aware of anybody at MPD that has a drug or alcohol problem.
Q. Well, if I told you that Chief

Baylor testified that it was the city's policy, he didn't agree with it, but it was the city's policy that if somebody -- that if a police officer has a drug problem or an alcohol problem that they're allowed to remain on the job without discipline if they agree to get help. Do you disagree that that's the city's policy?
A. Do I disagree with the policy?
Q. Do you disagree that that is the city's policy?
A. I don't know. I can't answer that question.
Q. Okay. It's not your testimony, is it, that there are no police officers that have ever been determined to have a substance abuse problem?
MR. BOYLE: Object to the form.
Q. I mean there are officers that have been determined to have a substance abuse problem, are there not?
A. I am not familiar with any. I

have no personal knowledge of any officer having a drug problem.
Q. Well, forget personal knowledge. I mean you are aware that there are police officers that have been determined to have, whether you know them personally or not, that have been determined to have substance abuse problems?
MR. BOYLE: Object to the form.
A. In the United States?
Q. No. In the Montgomery Police Department.
A. I'm unaware of it. I don't know. I've never dealt with an officer who had a substance abuse problem.
Q. Okay. Does the city undertake any screening to make sure that police officers who are hired -- you said you do some hiring; right?
A. Yes, ma'am.
Q. Have you ever asked or made an inquiry as to whether police officers who

are coming into Montgomery have ever attempted suicide? Are they asked that question during the hiring phase?
A. I don't think that specific question -- I don't know. It might be.
Q. I mean, have you ever asked that? I'm just talking about in your experience.
How many people would you say you've sat on the board, the three-person board, to make a recommendation or decision regarding hiring?
A. How many?
Q. Uh-huh. Just roughly. Hundreds?
A. Possibly, yes, ma'am.
Q. Have you ever inquired or been on a board where the potential employee has been asked whether he or she has ever attempted suicide?
A. No, ma'am.
Q. Do you know whether there is any screening done to determine whether

current employees have attempted suicide but it was undetected?
A. Screening. We do a background investigation for prospective employees.
Q. Sure.
A. And I'm sure such a thing would come up if -- if a witness was -- or an associate was interviewed by the recruiter.
Q. Right. But first of all, the background screening doesn't at all inquire regarding mental health issues or suicide attempts, does it? It would be prohibited by the ADA.
A. I don't know. You'd have to ask somebody in recruiting.
Q. So you don't know -- Let me just get the question out so the Record's clear.
You don't know of any attempt to screen candidates for hire to determine whether they have any background of mental illness or suicide attempts?

FREEDOM COURT REPORTING

A. Well, the doctor does that. In staff, I've never asked a question regarding health or -- that's left to somebody else.
Q. Who is it left to?
A. The doctor. We have a physician.
Q. Okay. Let me ask it this way then. Are all your employees required -- Strike that.
Is there anyway to -- Are you aware of any attempt to find out whether any current employees have attempted suicide, perhaps after they've worked for the department, but the attempt is not something -- Let me back up and ask it this way.
Y'all knew about Ms. Stokes' attempt to commit suicide because she called her chain of command. She called somebody in the police department after she took the pills, and so she voluntarily disclosed, essentially, to the department that she had

taken the pills?
A. Yes, ma'am.
Q. You agree with me on that?
A. Yes, ma'am.
Q. Now, would you agree with me that it is conceivable that somebody could have taken pills and not called or done something else in an attempt to commit suicide and simply not called the police department and perhaps they were off for a week or there was some reason why -- it is conceivable that an employee could have attempted to commit suicide, and it's undetected by the department?
MR. BOYLE: Object to the form.
Q. Do you agree with me that that's a possibility?
A. That is a possibility.
Q. Okay. Now, does the department undertake any inquiries, screening, or do anything to make sure that all of your police officers have not

attempted to take their own life?
A. We don't.
Q. Okay. All right.
MS. MATTISON: We'll take a recess.
(Recess taken.)
Q. (BY MS. MATTISON): Did you have any more conversations with John Carnell -- And I think I've pronounced it wrong if we could change it to --
MS. MATTISON: Is it C-A-R-N-
MR. BOYLE: -E-L-L.
Q. -- other than the one you've told me about?
A. That's the only one I can remember. I did ask Mr. Carnell to come to Deputy Stokes' trial board.
MS. MATTISON: You're going to get us a copy of the tape of that hearing where inaudible --
MR. BOYLE: How bad is it? I haven't even read it.
MS. MATTISON: Virtually every

question that he's asked, the answer is inaudible.
MR. BOYLE: Are you talking about Colonel's responses or John Carnell's?
MS. MATTISON: No, the Colonel's responses.
Q. Can you tell me whether you, or anyone at the department that you know of, monitor's whether other officers take care of their health issues?
In other words, do you make sure that the women in the department get mammograms, that the men go get their prostate checked, that people take their medication, that they get annual checkups? Do you do any monitoring to make sure that other people remain fit?
A. No, ma'am.
Q. All right. You were telling me what happened -- Strike that.
Let me ask you this. Now, my understanding is that you were aware that Ms. Stokes was being seen by the EAP, the

employee assistance program?
A. Yes, ma'am, I was aware of that.
Q. And how did you become aware of it?
A. I don't remember. I know her counselor, I think, was Linda or Sharon. Sharon.
Q. Did you talk with Lieutenant Youngblood about Ms. Stokes being seen by the EAP?
A. I may have. I don't remember.
Q. Okay. What did you understand that Ms. Stokes -- Deputy Stokes was being seen by the EAP for? Why were they seeing her? What was your understanding of that?
A. As a result of her trying to take her own life.
Q. Okay. But you knew that she was seeing them before she attempted to take her own life, didn't you?
A. No, ma'am, I didn't know that.
Q. All right. You were telling

me about what happened after you found out about Ms. Stokes' suicide attempt, and you explained that you talked -- Did you meet in person with the chief or did you talk over the phone with him when you told him that you didn't think that she could be POST certified?
A. I made that statement to him in staff, which is our morning meeting.
Q. Okay. So this would be the morning after she attempted suicide, right after you found out probably?
A. Yes, ma'am. I don't know if it was exactly. Because I don't know if it was on the weekend or what, but it was the next time we met.
Q. All right. Then how long after that did you call the POST agency or the POST board?
A. That morning.
Q. That morning. The same morning. Okay.
And then did you report

back -- and I apologize. Sometimes if we've taken a break, it takes me a little bit to get back in the saddle, so to speak.
Did you then report back to the chief what POST people had said regarding certification?
A. I did.
Q. What was his response, if any?
A. I mean. Okay. He acknowledged what I told him. He didn't say anything other than okay.
Q. Okay. And then as I understand it, you then requested that an investigation be made of Deputy Stokes, whether she had violated the rule on duty to remain fit?
A. Yes, ma'am.
(Whereupon, Plaintiff's Exhibit No. 2 was marked for identification.)
Q. Okay. Let me show you Plaintiff's Exhibit 2. Is this the memo that you sent to the chief regarding the

investigation for the -- on Corporal Stokes' duty to remain fit?
A. Yes.
Q. It looks like your title, whether you're a colonel or major or corporal, et cetera, is not really dependent on what position you have. Am I correct about that?
A. I think so. I'm not sure what your question is.
Q. Well, I didn't ask it very well perhaps. Is the chief still a colonel?
A. That's his rank. But rarely if ever is he called colonel. He's always called chief.
Q. Right. I'm just trying to figure out if you can get an advancement in your title without changing your job -- without getting promoted?
A. Well, like I'm -- my rank in the personnel files is deputy chief, but I'm lieutenant colonel which is a silver cluster. Rarely do they ever call me Deputy

Chief Murphy; they call me Colonel Murphy. It's kind of complex, because you may have an assigned rank, but how you're addressed is sometimes different.

Q. Okay. So both you and the chief then are colonels?

A. He's a colonel, I'm a lieutenant colonel.

Q. Is a lieutenant colonel somehow under a colonel?

A. Yes, ma'am. A full bird colonel is what Chief Baylor is, and that's an eagle. And I'm what they call a light colonel, which is a silver oak leaf, it's a step above a major.

MR. BOYLE: It's based on the Army or the Air Force officer rank structure.

MS. MATTISON: I need to go home and ask my husband these questions then.

MR. BOYLE: If I may, kind of what you're asking is he's the chief, but

he's also a colonel. Well, his rank is colonel, that's his pay grade, that's what he gets paid under. His title is Chief of the Montgomery Police Department. Same with Colonel Murphy and Colonel Thompson, they are lieutenant colonels, that's their pay grade; but their titles are Deputy Chief of Police for the City of Montgomery. And then a major will be a major, that's his pay grade, but there will be a division commander -- I think everybody is division commander now; is that right?

THE WITNESS: Yes.

Q. Just out of curiosity, is deputy or corporal higher, or does it depends on what police department I'm in?

MR. BOYLE: Deputy is a sheriff's annotation. You're a deputy sheriff. I think that covers everybody but the sheriff.

MS. MATTISON: For example, I'm referring to Ms. Stokes as Deputy Stokes. I see she's Corporal Stokes, it's

kind of apples and oranges.

MR. BOYLE: It's kind of like Officer Murphy, he's still a police officer.

MS. MATTISON: I see.

MR. BOYLE: But his rank is -- Are you still corporal down there?

PLAINTIFF: No.

MR. BOYLE: They still have a rank structure, corporal, lieutenant.

MS. MATTISON: All right. I'm with you.

Q. What is the next thing that you remember happening after the December 20th memo, with regard to Ms. Stokes?

A. I don't -- I mean, I didn't see the letter from the city attorney until much later. But obviously it was sent to internal affairs and investigated.

Q. Okay. I'm assuming that you made a decision that Deputy Stokes or Corporal Stokes had not engaged in a minor rule violation but allegedly in a major rule violation; is that correct?

A. Yes ma'am.

Q. So Plaintiff's Exhibit 2 was basically your letter to the chief asking for an investigation to be made?

A. Yes, ma'am.

Q. All right. Now, did you have anything to do with approving Corporal Stokes' request for Family Medical Leave? Would you have had to approve it because you were in the chain of command?

A. I don't remember seeing it. I mean, I see a lot of paperwork, even as a major. I mean, I don't remember signing it, but if you have a document that has my initials on it, then I did. But I don't recall her Family Medical Leave.

Q. Okay. All right. Now, your understanding is that Deputy Stokes never denied that she had attempted suicide. It wasn't something that she tried to hide?

A. Correct.

Q. Okay. All right. I don't see in her file that there was actually a letter from the chief to the city attorney sending it over for an investigation or for guidance. Do you -- Are you aware of a letter like that?

A. That's a customary thing in an investigation. I haven't.

Q. Just not aware of one as we sit here?

A. Right. I'm not.

(Whereupon, Plaintiff's Exhibit No. 3 was marked for identification.)

Q. Okay. And I'm assuming that you have seen Plaintiff's Exhibit 3; is that a fair statement?

A. Okay.

Q. Have you seen that document before, Plaintiff's Exhibit 3?

A. I may have. I don't -- There was a lot of paperwork, and I'm just going to have to say at this time, I may have seen this, and I just perused it, and it's a doctor's report.

Q. Okay. Do you have any evidence in that the material in Plaintiff's 3 is incorrect?

A. I disagree with the doctor. I mean, it's his professional opinion that she's fit for all duties of a police officer, but I disagree with that statement.

Q. Okay. And on what basis do you disagree with the statement?

A. Based on what we spoke about earlier with Mr. Carnell, Deputy Stokes is not fit because of her attempt to take her own life.

Q. Do you have any medical background yourself, sir?

A. No, I do not.

Q. Do you have any medical statements that back up your opinion or any opinion from a doctor that backs up your opinion?

A. No.

Q. Do you have any evidence other than your feeling and Mr. Carnell -- Do you

have any evidence or any support, other than you and Mr. Carnell's statements, that back up your opinion?

A. I've had some experience with -- Raymond Eugene Brown was a gentleman that was let out of prison back in the '80s, he had killed two people. The doctor said he's fine, he's not a threat to society; Mr. Brown got out of prison and within a year killed two more people. I don't -- Doctors are not gods. I don't think that we can put a hundred percent with absolute certainty in what a doctor says. They're human, they make as good a estimate as they can, but they're far from perfect. And so I just -- You know, I take this report as his opinion, but I don't necessarily give it my entire confidence.

This is one man's opinion, but I don't feel like he can predict with all certainty that she is fit or that nothing will ever occur again.

Q. Do you think that there was

any position in the police department that she was capable of performing, given her suicide attempt?

A. I'm not aware of any. It was my determination, but my determination wasn't based solely on her possibly attempting suicide in the future. It was also based on that she did try to take her own life, and that behavior reflects negatively on the reputation of the department and of the officer.

So, again, my determination wasn't based solely on what may happen in the future, it was also based on what had happened.

Q. When you say it was your decision, what do you mean? What was your decision?

A. That Deputy Stokes be terminated from the police department, it was my determination.

Q. Would you consider yourself the decision maker?

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A. No. I only make a recommendation. The chief and the mayor can either accept my recommendation or reject it. I hold an advisory role or I make a recommendation.
Q. Okay. Now, tell me how it would reflect negatively on the reputation of the department. How would that happen?
A. Well, if you look throughout the rules and regulations manual, it's peppered with the ability of a police officer to perform their duty and, you know, it talks of police officers are the most conspicuous and visible signs of government, and that to most people, he or she is a symbol of stability and authority to which most people rely on. And given that, I don't feel -- it's my determination that an officer who would attempt suicide does not hold that confidence in the public and other members of the department, and it reflects negatively upon the MPD.
(Whereupon, Plaintiff's

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Exhibit No. 4 was marked for identification.)
Q. Let me ask you this. The longest job description I've ever seen in my life, but let me show you Plaintiff's Exhibit 4.
MS. MATTISON: Do you need a copy of the job description?
MR. BOYLE: Huh-uh. Sorry. No.
Q. Okay.
THE WITNESS: Do you mind if I go get my reading glasses?
MS. MATTISON: Not at all.
(Recess taken.)
Q. (BY MS. MATTISON:) Does this seem to be the job description of the police officer?
A. It appears to be. It's pretty lengthy.
Q. Very lengthy. So that we're clear, this is the -- this is the position that you felt like Ms. Stokes, as a result

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of attempting suicide, was no longer able to fulfill the duties of?
A. The position of police officer?
Q. Yes.
A. Yes, ma'am.
Q. So you felt basically she couldn't perform these duties that are contained in the police officer job. I'm assuming that's what you're telling me?
A. I'm not sure I understand your question. I think she posed a risk to fellow officers and to the public. And it was my determination that she engaged in activity that reflected negatively upon the police department.
Q. Right.
A. Are you asking me if -- like going through the pages, is she able to gather preaccident information to determine whether it's related to the cause of an accident? I mean, I don't -- Could you be more specific in your question?

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Q. Yeah. A couple of things. I'm assuming that you thought if she could fulfill the job duties of the police officer, you wouldn't have recommended that she be terminated?
MR. BOYLE: Object to the form.
Q. Is that a fair statement?
A. I still really don't understand. I don't feel that she could perform the duties of a police officer because of the aforementioned reasons.
Q. Okay. All right. Because how we got off on this is you indicated that you disagreed, and if you look back at the letter from the physician, that it was -- that you disagreed with his opinion that she could perform the duties of the police officer. You've said you disagreed with that statement?
A. Well, at the beginning of page two, based on my fitness for duty evaluation of Ms. Stokes and my prior knowledge of her

as a patient, it's my professional opinion that she is fit to return to duty. I mean, again, this is a doctor's opinion, but I disagree with his conclusion because somebody who attempts to take their own life, in my determination, is not fit to be a Montgomery Police Officer.
Q. Okay. Do you -- Look at the last paragraph. It says: Once again, it's my professional opinion that she is fit to do all the duties as a police officer. I thought that you also said that you disagreed with that statement?
A. I do.
Q. Okay. All right. So it sounds to me like basically, you don't think she was able to perform the duties that are contained in the job description. I'm not trying to trick you, I have to be clear on what you're saying.
A. I don't feel that she was fit to perform the duties of a police officer for the aforementioned reasons.

Q. Okay. Are there any duties in this job description that you felt that she was able to perform, or is it a fair statement to say, and I think that this is what you're saying, that due to the fact that she might commit suicide again, or she might -- she might allow herself to be killed or endanger another officer, that that really meant that she wasn't capable of performing the duties contained in the job description?
MR. BOYLE: Object to the form.
A. Not just that, but engaging in the activity of attempted suicide reflects negatively upon the department, but also upon the person who's expected to perform these duties.
Q. Right. I'm going to get to that part in a second. I'm just trying to figure out your understanding or your belief is that -- I think you've answered it, that as a result of attempting to commit suicide

she was not able to perform the duties associated with the police officer position?
A. Correct.
Q. Okay. Now, you recognize that people who attempt to commit suicide have some mental health issues, do you not?
A. I would agree with that, yes, ma'am.
Q. Okay. Explain to me how the public -- in terms of the public, how would it reflect negatively in the eye of the public? How would they even know about her suicide attempt?
A. It was a report done. It's public information.
Q. What kind of report was done?
A. An incident offense report.
Q. Okay. Well, that's not public information, is it?
A. We provide them to the public. The reporters come to the back desk and look at them, take notes.
Q. That would be a violation of

the Americans with Disabilities Act, wouldn't it?
A. I'm not a lawyer, I don't --
MS. MATTISON: Counsel --
MR. BOYLE: Off the Record.
(Off-the-Record discussion was held.)
Q. Okay. Now are you telling me that her incident report, you're positive, was something that the public would have had access to?
A. We post all incident offense reports at the back desk as public information.
Q. My understanding is -- First of all, do you know for a fact whether her incident report was posted at the back desk?
A. I don't know that for a fact. We post all of them.
Q. But we don't know whether hers --
A. I never saw it.
Q. All right. Fair enough.

All right. Now, my understanding is that the incident reports which are at the front are public, but the incident reports in the back are not; is that correct?
A. That was changed recently.
Q. How long ago?
A. Just a few months ago.
Q. Okay. All right. So back when this occurred -- Strike that.
Do you have anybody who is close to you, either in your family or close friend, who's been diagnosed with having a mental illness such as depression?
A. I do. My sister.
Q. Okay. And you don't need to tell me her name or anything like that, but does she -- when did she begin to have depression -- Is it depression? I just assumed it was.
A. It is, but she's got a host of problems.
Q. What type of problems does she

have other than depression?
A. I'm not sure the clinical diagnosis, but I think she suffers from a personality disorder. But I'm not a doctor, so . . .
Q. I understand. How old is she roughly?
A. Fifty-two, maybe.
Q. Has she ever attempted suicide?
A. She has talked about it. I don't know if she's ever attempted it, she talked about it.
Q. Has she talked about it on more than one occasion?
A. Yes.
Q. Has it been kind of an ongoing problem?
A. Yes.
Q. When did she first -- When was she first diagnosed? Was it early twenties, late teens?
A. She was probably in her late

thirties.
Q. Ever been hospitalized with it?
A. No, ma'am.
Q. Okay. Is she working?
A. No, ma'am.
Q. Is she on disability?
MR. BOYLE: I want to ask the relevance of this. You're asking for personal information about him that doesn't affect -- I know it's your deposition, and I think you understand what I'm saying.
MS. MATTISON: I do.
A. What was your question?
Q. Is she on disability?
A. No, ma'am.
Q. Okay. Any -- Do you think, in fairness, that your concerns about Ms. Stokes' ability to return to her job had any relationship with your experience with your sister?
A. No, ma'am.
Q. Do you know anybody else who

has been diagnosed with a mental illness?
A. Do I know anybody?
Q. Yes.
A. Who's been diagnosed?
Q. Yes.
A. I can't say I do.
Q. Okay. Have you ever seen a counselor yourself?
A. Uh-huh. Yes, ma'am.
Q. Okay. When was the last time?
A. When I was going through marriage counseling.
Q. About?
A. Maybe eight years ago.
Q. Okay. Have you ever been diagnosed with depression?
A. No, ma'am.
Q. Anybody else close to you ever been diagnosed with depression, family member, friend, child, parent?
A. Not that I know of. They may have but never told me.
Q. Did you see a counselor other

than for marital counseling?
A. That was it. No, ma'am.
Q. Okay.
A. I did. It didn't work. We got divorced.
Q. I'm sorry to hear that.
So if the report, the incident report involving Ms. Stokes' suicide attempt was not made public, how would the public learn about her attempt?
A. Well, a great majority of the officers at the MPD knew about it. They go home and talk to their wives and their friends and -- I mean, you want something to get out, tell a police officer or their family, and you don't need CNN. They're a talkative group down there; they intermingle, interact with one another quite a bit.
Q. Did you take any steps to make sure that Ms. Stokes' suicide attempt or mental conditions were kept confidential?
A. No.

Q. Do you know that under the Americans with Disabilities Act that medical information or mental health information or information that involves suicide attempts, that it is confidential?
A. I did not know that.
Q. Okay. Isn't there a rule about gossiping, a police rule that says gossiping? I think I saw some people being written up on it.
A. Gossip is repeating something that is not true. And if I slam that door right there and you told the chief that I was slamming doors, that wouldn't be gossip. Deputy Stokes attempted suicide, so if anybody at the police department spoke of that, it wouldn't be untrue.
Q. So it's your understanding that if officers spoke among themselves or talked with their families about Officer Stokes attempting suicide or having a mental health issue, that that would be okay, there wouldn't be any consequences of that, or

there shouldn't be any consequence for that?
A. I can't say that I was powerful enough to stop the culture of police work or even society in general. I mean, I know that officers -- I mean, I have no personal knowledge of officers going out and telling their wives or talking about this, but I'm just speaking that it is human nature for people to discuss what they've seen at work or what they've seen on the police blotter.
Q. But my question to you is: If there were people that were talking about Ms. Stokes' attempted suicide or mental status, meaning other police officers either talking among themselves -- and I'm not talking about people that have a legitimate need to know like her supervisors, I'm talking about general discussion with the police officers, either among themselves or with members of the public. In your opinion, it sounds to me like that is something that because it was true should

not be a cause for discipline?
A. Well, it shouldn't be a cause for discipline. But I know that Deputy Stokes was well thought of at the MPD, still is. And I would almost bet that if anybody had a conversation about it, it was not meant in a harmful way. It was because they cared about her. And, I mean, everybody liked her, everybody likes her. And if they went home and had a discussion or if they were talking about it in the patrol car, it was, I feel, almost certain one of care and concern and not being malicious.
Q. So do you know in any way in which Ms. Stokes' suicide attempt actually did reflect negatively upon the police department?
A. Could you rephrase the question?
Q. Sure. Do you know any way that Ms. Stokes' suicide attempt or mental health condition actually did reflect negatively on the police department?

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A. The fact that she attempted to take her own life reflects negatively upon the MPD.

Q. By whom? What you've told me before, and correct me if I'm wrong, is that you thought that there was the possibility that it could negatively effect the Montgomery Police Department by other police officers or citizens. Did I accurately state what you said?

A. Yes, ma'am.

Q. Okay. Now, do you know anybody who actually thought less of the Montgomery Police Department because Ms. Stokes attempted suicide?

A. Yes. I have spoken to some of the city attorneys, you know. Most people would not want a police officer responding to their call or handling their problem from an officer who had attempted suicide.

Q. Okay. But what I'm -- Tell me about your conversation with the city attorneys.

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MR. BOYLE: You know that's privileged.

MS. MATTISON: Well, no, I don't think in this factual context. What I've asked him is does he know anybody -- I'm not talking about getting advice, I'm talking about does he know anybody who actually -- who actually -- I don't remember exactly how I phrased it.

MS. MCGINLEY: Thought less.

MS. MATTISON: -- thought less of the Montgomery Police Department because Ms. Stokes had committed suicide, and he said I talked to city attorneys.

MR. BOYLE: That was in the course of the disciplinary action when that was brought up, so that would still fall under the privilege, because we were talking about in anticipation of litigation.

MS. MATTISON: But certainly his testimony cannot be that he relied on the city attorneys who said I now think less of the Montgomery Police Department because

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one of your officers attempted suicide?

MR. BOYLE: I don't think that's what he was testifying to, and correct me if I'm wrong. The specifics of our conversation is not we thought less, and I think we're getting -- She wants to know why you feel people would think less.

MS. MATTISON: No, actually I don't want to know that. I understand that.

Q. My question is: Do you know anyone who actually felt less -- who thought less of the Montgomery Police Department because she had committed suicide?

Now, that's different than the question that, do you think it's possible that some people might think less of the Montgomery Police Department. My question is different. My question is: Do you know of anybody who actually thought less of the Montgomery Police Department because one of your officers had attempted suicide?

A. I understand your question now.

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No. I'd like to qualify that. I have had no conversation with anybody concerning that.

Q. All right. You don't know of anybody. You can't sit here and tell me I think so-and-so thinks less?

A. That's correct.

Q. Okay. Was the -- You don't know whether the incident report or mention of Ms. Stokes' attempted suicide was on the police blotter, do you?

My understanding is it was not. Do you know one way or the other?

A. I didn't go to check it to see. I have no knowledge.

Q. Okay. Would you look through the police description -- or the police officer job, and that being Plaintiff's Exhibit 4, and tell me if you think that there's any job duty on there that would not be negatively impacted by Ms. Stokes' attempted suicide or mental health condition?

A. Not be negatively?
Q. Yes. Is there any duty that you don't think would be -- that she would be unable to perform due to her --
A. This is so lengthy, I'd have to --
Q. Just take -- I mean --
A. I really can't. This is too lengthy for me to try to narrow down to a good answer for you.
I mean -- Again, I mean, if she's having a bad day and she's -- I don't know, is there a deadly force encounter essential function in this write-up that says if she's having a bad day and wishes to die and fails to take appropriate action to nullify the event coming at her or her partner, I mean, again, it's just really hard to answer that question, because there's so many tasks and essential functions in this job description.
Q. Well, forget the job description in written form. Is there any

job duties that you think she could have performed despite -- even with the fact that she had attempted suicide, or do you think that the attempted suicide would have had a potential adverse affect on all of them?
A. I think that the attempted suicide would have an adverse affect on her ability to perform her duties.
Q. Okay. Now, when -- I'm going to go back to talk about the chain of events. The last thing we talked about is do you remember what happened next after you wrote -- Strike that.
Deputy Stokes attempted to return to work, I'll represent to you, it looks like somewhere around January 19th, January 20th. Does that ring a bell to you?
A. Vaguely. I'm not familiar with the exact date.
Q. Does that sound about right?
A. I guess.
(Whereupon, Plaintiff's Exhibit No. 5 was marked

for identification.)
Q. Okay. During the time -- I will show you Plaintiff's Exhibit 5.
MS. MATTISON: This is my only copy.
MR. BOYLE: That's fine.
Q. Now, I see your -- Now, wait. Are you on here? No.
Deputy Stokes was approved for a merit increase. There's some other document in here that indicates that she should have gotten a merit increase. Do you remember that? No, you don't?
A. I'm sorry, I don't.
Q. That's okay. A decision was made that Deputy Stokes should receive a psychological evaluation. Who made that decision?
A. Mr. Carnell, I guess.
Q. It wasn't your decision; right?
A. No. I don't do that.
Q. Okay. Why wouldn't you have

made that -- The way you answered that was like no -- How do you know it wasn't like your decision, or was that a decision you wouldn't have made?
A. I've never made that decision. I mean, we have other people that work for the city that are consulted on such matters.
Q. Okay. All right. So you're assuming that -- Let me show you this document. You're assuming that Mr. Carnell made the decision to secure a psychological evaluation.
A. I don't know for certain.
Q. Somebody did.
A. Somebody.
(Whereupon, Plaintiff's Exhibit No. 6 was marked for identification.)
Q. Who made -- I'm showing you Plaintiff's Exhibit 6. And I guess I don't -- Are you on here? It doesn't look like you signed this; right? I don't recognize your signature.

A. I'm not on here.
Q. Do you know who made the decision to place, and this is January 26th, 27th, to place Deputy Stokes on administrative leave?
A. No, ma'am, I don't.
Q. You didn't make the decision to put her on administrative leave?
A. No, ma'am.
Q. When did you make the decision to recommend termination? Was it right after she attempted suicide?
A. Oh, no. When I read the investigative file and drew up the papers for charges and specifications, that's when I made my determination.
Q. Okay. All right. And I'm assuming that it was based on the liability issues that factored into it?
A. The facts and evidence in the file.
Q. Okay.
A. Not just the liability, but

the act, itself, the conduct was also a factor.
Q. Right. But the act, itself -- I mean, what I'm hearing about the act itself, is the act itself really raises the issue of the risk and the potential liability meaning she couldn't perform her job?
A. It is a consequence of the act.
Q. Okay. Do you remember when Deputy Stokes returned to work?
A. Not exactly, no, ma'am. When you say returned to work --
Q. Returned to employment of some sort with the city.
A. I don't specifically.
Q. Who made the decision to put her on the back desk?
A. I spoke to the chief about it, and we decided that she should be on administrative duties until further notice.

Q. Okay. So it sounds like you did make the decision to put her on administrative leave?
A. No, ma'am. Administrative leave with pay is when you go home.
Q. Okay.
A. That's leave. But administrative duties is when you're actually working; you're in the building, but you're not actually out on the street.
Q. Okay. So you did not make the decision to put her on administrative leave with pay, but you did make the decision to put her on administrative duty?
A. Yes, ma'am.
Q. And on what basis did you make the decision to place her on administrative duty?
A. Because she had attempted suicide and I felt that she was not stable enough to be on the streets.
(Whereupon, Plaintiff's Exhibit No. 7 was marked

for identification.)
Q. I'll show you Plaintiff's Exhibit 7.
MS. MATTISON: Do you want a copy of this?
MR. BOYLE: I have it. Thank you.
Q. All right, now, do you recognize this?
A. I do.
Q. And on the 24th, you're recommending that she be placed on administrative leave with pay until January 24th. That's what the memo says; right?
A. Yes, ma'am.
Q. And that beginning on January 25th, she be placed on administrative duties?
A. Yes, ma'am.
Q. All right.
A. The operant word was respectfully request. I didn't actually approve it.

(Whereupon, Plaintiff's Exhibit No. 8 was marked for identification.)
Q. Again, I only have one copy of this. Let me show you Plaintiff's Exhibit 8. Tell me what this is.
A. It's a memo that my secretary typed stating that Officer Stokes, which it should have been corporal, is out sick due to unforeseen illness. She's exhausted all of her leave. Please show Officer Stokes on leave without pay status for the date or dates indicated.
Q. All right. And what was the unforeseen illness?
A. She was taking sick time, I guess, an unforeseen illness.
Q. A suicide attempt?
A. Yes, ma'am.
Q. You knew that she was seeing a counselor -- You knew she had been hospitalized; right?
A. Yes, ma'am.

Q. And you knew she was seeing a counselor on outpatient basis?
A. Yes, ma'am.
(Whereupon, Plaintiff's Exhibit No. 9 was marked for identification.)
Q. Okay. All right. Plaintiff's Exhibit 9, what is this?
A. It's commonly referred to as a Garrity form.
Q. Garrity form?
A. Yes, ma'am. G-A-R-R-I-T-Y.
Q. Now, I still don't have a copy of -- Strike that.
Is this the beginning of the investigation, this letter notifying Deputy Stokes of the beginning of the investigation?
A. Not necessarily. It's telling them their rights under the law.
Q. Well, but it says that they're going to be questioned as part of an internal investigation regarding whether the

person was performing the duties of their office, does it not?
A. Yes, ma'am. It advises them that they're going to be questioned. As far as this being the official notice that she was being investigated?
Q. Well, I don't know whether I asked you whether it was official. Maybe I did, I didn't mean to.
This is a notice to Deputy Stokes that she's being -- that she's going to be questioned regarding whether she performed the duties or whether she was fit for her job. That's what it says, the first part of it; right?
A. Yes, ma'am. It's self-explanatory. It tells you you're going to be questioned for the narrowly related function of official duties, fitness for office. It talks about you're entitled to all the rights and privileges guaranteed by the constitution, including the right not to be compelled to incriminate yourself.

Q. Okay. And then on that same day, Corporal Stokes was questioned by Sergeant Bolton; is that correct?
A. I'm assuming so from --
(Whereupon, Plaintiff's Exhibit No. 10 was marked for identification.)
Q. I'll give you a copy.
A. It has the same date as the statement date.
MR. BOYLE: Is that her internal affairs, Colonel?
THE WITNESS: Yes.
Q. All right. Now, do you remember an incident somewhere around January -- I'm sorry February 1st, 2nd, where you were told by somebody, either to go yourself or to ask Lieutenant Rigsby to show up at Deputy Stokes' house?
A. Yes, ma'am.
Q. Tell me what happened involving that incident.
A. Deputy Stokes' counselor

called me and voiced her concerns over her safety.
Q. What did she say?
A. Pardon?
Q. What did she say?
A. That she was concerned over her trying to kill herself again and that we needed to go check on her.
Q. What would have caused her to want to kill herself again?
A. I have no idea.
Q. She just -- Deputy -- I'm sorry, it's Dr. Harwood; is that right?
A. No.
Q. No, it's Linda -- I'm sorry, give me her name. You don't know it?
A. No, I don't know it.
Q. So Linda Holmberg calls you up out of the blue and says, I think Deputy Stokes is going to kill herself again?
A. She didn't phrase it exactly like that. She said she was concerned for her safety and for her well being, something

to that effect, and that she may be suicidal and asked that we go check on her.
Q. Well, was Corporal Stokes working at this point?
A. I don't remember. She was on third shift, and that was during the daytime, so I don't know.
Q. Any idea why was Ms. Holmberg --
MS. MCGINLEY: H-O-L-M-B-E-R-G.
Q. -- why Ms. Holmberg would have called you to tell you -- You actually spoke with her; right?
A. Yes, ma'am.
Q. What did you say to her? Did you question her?
A. No. I just said okay, I'll go check on her.
Q. And did you go check on her?
A. Yes, ma'am.
Q. Did you go to her house?
A. Yes, ma'am.

Q. What happened when you went there?
A. She was there. Lieutenant Rigsby was with me and we talked. She said she was okay, so we left. We told her we were concerned about her.
Q. Did she look like she was in any distress?
A. No, ma'am.
Q. Did you go with Lieutenant Rigsby?
A. I don't know whether we rode together or not. I know he was there.
Q. How long did the meeting last at the house?
A. I don't know. We weren't there long.
Q. Well, fifteen minutes, hour?
A. We weren't there an hour. But I'd be guessing if I told you, if I said. I don't know.
Q. What's your best judgment on it?

A. Maybe fifteen minutes, maybe.
Q. How many conversations have you had with Ms. Holmberg?
A. Over --
Q. About Ms. Stokes.
A. I can't say. Maybe two or three.
Q. Other than that conversation, what can you remember Ms. Holmberg -- talking with Ms. Holmberg about?
A. I mean, she just said that she was seeing her. She didn't go into any detail.
Q. Did you call Ms. Holmberg or did she call you or how did the other two conversations begin?
A. I don't remember if I called her or she called me. I think she dealt mainly with Mr. Carnell.
Q. Did Ms. Holmberg ever tell you that she thought that Ms. Stokes -- or that Deputy Stokes was not fit to return to duty?
A. I don't remember her ever

saying that.
Q. You understood that she thought that Deputy Stokes was capable to return to work; right?
A. She never said that to me.
Q. But you saw a letter that she wrote saying that?
A. Wasn't that from a doctor?
Q. There were three letters.
A. I don't remember it. You'd have to show it to me. I might have, but I don't remember seeing it.
Q. Okay. Now, there was some discussion with Ms. Holmberg about -- during this time when you went to see Ms. Stokes, about Ms. Stokes possibly being fired; is that right?
A. She did say that, yes, I do remember. Ms. Holmberg said she was -- Deputy Stokes was worried about losing her job.
Q. Well, isn't what happened is that John Carnell told Ms. Holmberg that

Ms. Stokes was going to be fired?
A. You will have to speak to Ms. Holmberg. I don't know. I don't remember how -- I don't know.
Q. Okay. My understanding is that Ms. Holmberg and Mr. Carnell had a conversation whereby Ms. Holmberg was told that Ms. -- Deputy Stokes was going to be fired, and on that basis -- I mean didn't -- isn't what Ms. Holmberg told you -- Isn't what Ms. Holmberg said was that she was concerned that Deputy Stokes would be upset because she was going to be fired, or when she found out that she was going to be fired?
MR. BOYLE: Object to the form.
A. Ms. Holmberg called me and said that she was worried about Deputy Stokes. And I do recall she did say something about she's worried that she's going to lose her job. But past that, I don't know.

MS. MATTISON: Let's take a short break.
(Recess taken.)
(Whereupon, Plaintiff's Exhibit No. 11 was marked for identification.)
Q. Okay. I'm showing you Plaintiff's Exhibit 11, and ask you if you authored this document.
A. Yes, ma'am.
Q. Okay. And you state that Corporal Stokes is currently being evaluated by a physician and licensed counselor. Who is that?
A. I don't know. I received this information, I'm assuming, from Mr. Carnell.
Q. Okay. And due to these circumstances, which I assume means that she was being evaluated, that she's ineligible for transfer to another division. Am I reading that correctly?
A. Yes, ma'am.
Q. And is the -- is there a rule

written down that someone who is being evaluated to determine fitness for duty, that they're ineligible for transfer? I didn't see that in the department rules.
A. No. I'm not aware of any rule, specific rule.
Q. Okay. Who made the determination that she wasn't eligible? Was that you?
A. The chief and I discussed it. It seemed a rather moot point because she was on loan to the administrative division. So if you transferred her to another division, she'd still be on loan to the desk.
Q. What do you mean?
A. Well, she was currently assigned to the patrol division. If she would have been transferred to, say, the traffic division, she still would have been on loan to the desk.
Q. Well, she was only on loan to the desk because the department wouldn't let

her go back to a patrol officer; correct?
A. She was -- Repeat the question.
Q. Yeah. She was on loan to the desk because when she -- when her Family Medical Leave expired, she was at that point not eligible -- Well, strike that.
When her Family Medical Leave expired, the department -- either the city or police department, made a determination that she would not be allowed to go back to a patrol officer.
A. Patrol officer, she was still a corporal.
Q. I understand. But she wasn't working the streets. A determination was made that she be put at the desk, on an administrative position?
A. Correct.
Q. And that was not because you really needed someone working on the administrative -- on the desk, but because at that point there was a concern about her

returning to the street?
A. Right. We put her on the desk because we were concerned about her stability.
Q. Okay. All right. Let me ask you this: If you and Murphy -- I'm sorry, you and the chief made the decision that she be ineligible for a transfer, why did you have to write him a memo stating that? I mean, wouldn't he already know it if the two of you made the decision?
A. Yes, ma'am. We documented it. I don't know if there were transfers -- I don't recollect if transfers were being conducted at the time that I wrote this memo.
Q. Well, you don't remember that Ms. Stokes -- or that Deputy Stokes had asked for a transfer?
A. I don't know. She may have been on a transfer list to go to a division. I'd have to see the letter and see if we -- she was eligible to go, and if we were

making transfers. I'm unaware of it, though.
Q. Okay. Now, did Deputy Stokes, while she was on the administrative job, were you concerned at all about her having a gun -- access to a gun?
A. She wore civilian clothes. We didn't allow her to be armed.
Q. Okay. Who made the decision that she wear civilian clothes?
A. Chief Baylor and I did.
Q. There's no documentation on that, how come?
A. No, ma'am.
Q. Why is there no documentation on that?
A. I don't know.
Q. So is it your testimony then that the decision to put her in civilian clothes was so that she wouldn't have access to a gun? That's what it sounds like.
A. Yes, ma'am. We didn't feel, because of her situation, that she should be

armed.
Q. Because of her instability?
A. Yes, ma'am.
Q. Okay. Now, do you know whether she had actually retrieved her gun?
A. I don't know.
Q. Would that have concerned you if she had?
A. If she had --
Q. Retrieved her gun?
A. Her service gun?
Q. Yes.
A. Well, I mean not necessarily, I guess, because she probably would have had other guns. So she -- in the building she wasn't allowed to have a weapon.
Q. Why? I don't understand why.
A. Because we were concerned about her stability because of the attempted suicide.
Q. Okay. Now, you understand that she didn't attempt suicide by using a gun?

A. Yes, ma'am.
Q. Were you concerned that she might try to shoot herself with a gun?
A. I mean, it was a possibility. I don't know -- There's a variety of ways to kill yourself, and I had worried that she may try to shoot herself, kill herself that way. If somebody wants to kill themselves, they're going to find a way.
Q. Well, did you have any evidence that she was continuing to think that she had wanted to kill herself again? In other words, did you have any evidence from anybody that she -- that she still wanted to commit suicide?
A. Yes, ma'am, when Linda called, the counselor.
Q. Okay.
A. We were trying to do what was right. I mean, we were concerned about her safety, the safety of others around her, the citizens.
Q. Okay.

MR. BOYLE: Anything you write down she can have.
MS. MATTISON: Yeah. If you write it down, I get to look at it.
(Whereupon, Plaintiff's Exhibit No. 12 was marked for identification.)
Q. Let's make it Exhibit 13 -- 12 -- I'm showing you what's marked Plaintiff's Exhibit 12, it's a February 7th, 2006, letter to the chief of police by Kimberly Fehl -- Field?
A. Fehl.
Q. All right. Now, do you recognize this letter?
A. I do.
Q. And this is the letter that indicates that an investigation is going to be completed?
A. Yes, ma'am.
Q. All right.
A. She notes in the first part of the letter: Pursuant to my verbal approval,

which was January 23rd. Apparently she wrote the letter on February 7th.
(Whereupon, Plaintiff's Exhibit No. 13 was marked for identification.)
Q. Okay. All right. I'm going to mark this Plaintiff's Exhibit 13. I represent it's a February 14th, 2006, memorandum from you to Chief Baylor. Am I accurate on that?
A. Yes, ma'am.
Q. All right. Now, you testified earlier that you made the determination whether a rule violation has occurred after the investigation, and at that time, you also recommend punishment.
MR. BOYLE: Object to the form.
Q. Do you remember that testimony?
A. Yes, ma'am.
Q. Okay. And I am assuming that this memo, that being Plaintiff's Exhibit

13 -- first of all, was Ms. Stokes -- Deputy Stokes provided a copy of this memo. It doesn't say that she's copied on it, but do you know whether she received a copy of this memo?
A. Yes, ma'am. She's served and then she signs for it.
Q. Okay. Somehow I don't have a copy that she signed for anything.
MS. MATTISON: Do you know whether we have it in the file?
MS. MCGINLEY: I think so.
MS. MATTISON: If you could look for it, I'm going to keep questioning.
(Whereupon, Plaintiff's Exhibit No. 14 was marked for identification.)
Q. All right. I'm also going to show you Plaintiff's Exhibit 14, this was provided the same date. It was provided to Corporal Stokes. All right.
I don't see in either one of these documents that there's an indication

for what the recommendation for punishment is going to be, but maybe I've overlooked it.

A. Not in this paperwork. It's included in the package that Deputy Stokes was given.

MS. MATTISON: Rachel, if you could, see if you can identify what the package was.

MS. MCGINLEY: Yeah.

Q. Just to clarify, Plaintiff's Exhibit -- it's going to be a letter from Dr. Shaffer. Yeah, Plaintiff's Exhibit 3. My understanding is that that is the fitness-for-duty evaluation that -- Yeah, it says it is, that John Carnell asked to have completed; is that correct?

A. The letter's made out to him, so I don't know. You will have to speak to Mr. Carnell about that.

Q. Well, you wouldn't know as the division commander who was doing the fitness-for-duty evaluation or what the

results were?

A. I mean, I don't remember Dr. Shaffer.

Q. Sure. Look on the first line on Murphy Exhibit 13 -- 3. I'm sorry.

A. 3?

Q. Yeah.

A. Okay. The first line.

Q. The first line indicates on December 19, 2005, Candida Stokes attempted suicide. John Carnell, of Risk Management for the City of Montgomery, requested that I perform the fitness-for-duty evaluation on Ms. Stokes.

Do you see that?

A. Yes, ma'am.

Q. Okay. So, then, given that that letter was written on January 20th, 2006, when you -- when you wrote Colonel Baylor a duty status of Corporal Stokes, this is Murphy 11, on February 2nd, stating that she was currently being evaluated by a physician or licensed counselor to determine

her fitness for duty, in fact, the fitness-for-duty evaluation was already completed; correct?

A. Which exhibit are you on?

Q. 11.

A. It doesn't necessarily mean -- This was on the 20th, it doesn't necessarily mean that I had seen it by February 2nd.

Q. Here is the question.

A. Okay.

Q. In fact, when you wrote Colonel Baylor on February 2nd, 2006, the fitness-for-duty evaluation had already been completed, based on the fact that there's a letter dated January 20th, which is the fitness-for-duty evaluation?

A. Right. Uh-huh.

Q. I'm sorry, you need to say yes to that last question.

A. Yes.

(Whereupon, Plaintiff's Exhibit No. 15 was marked for identification.)

Q. All right. I'm assuming that you have also seen Plaintiff's Exhibit 15, but tell me if I'm wrong?

MR. BOYLE: Object to the form.

A. I don't recall ever seeing this letter. But there is so much paperwork here and Mr. Carnell handled the doctors and the counselors --

Q. So you don't know whether you ever saw Plaintiff's Exhibit 15?

A. I don't know. It says original letter mailed to, and it shows Candida Stokes, but it doesn't say CC.

Q. I'll represent to you that this was in the department's file.

A. Okay.

Q. Did you ever ask to see any more or any medical information, other than the letter from Dr. Shaffer that we've talked about?

A. No. I mean, again, Mr. Carnell was handling that aspect of

this.
Q. It sounds to me like it wouldn't have really mattered what the doctors would have said --
MR. BOYLE: Object to the form.
Q. -- you still had a concern about the risk issue and the liability issue?
A. But that wasn't solely --
Q. Is that right?
A. That wasn't solely --
Q. You need to answer the question. It sounds like --
A. Ask the question again.
Q. I will. It sounds like it doesn't really matter what any of Corporal Stokes' physicians could have said to alleviate any concern you had about liability or risks; correct?
MR. BOYLE: Object to the form.
A. I'm not really certain.

Q. Do you want me to ask it in a different way?
A. Sure. Would you, please.
Q. It sounds to me like there wasn't anything that Deputy Stokes' physicians could have said that would have gotten rid of or alleviated your concern about liability or risk, am I right on that?
A. No. I don't -- I don't believe in saying never or there's no such thing as absolutes, so again we -- I don't think that's a fair question.
(Whereupon, Plaintiff's Exhibit No. 16 was marked for identification.)
Q. Let me show you Plaintiff's Exhibit 16. I'm assuming you've seen that document; is that correct?
A. Okay.
Q. Have you seen this letter before?
A. Yes, ma'am, I believe I have.
Q. Do you have any reason to

disbelieve any of the information contained in Plaintiff's Exhibit 16?
A. Rephrase the question.
Q. Do you have any basis for disagreeing with any of the material or information contained in Plaintiff's Exhibit 16?
A. Yes, ma'am. I have a problem with, on the second page Ms. Holmberg says: She wishes -- would like to take this opportunity to clarify what I believe to be a miscommunication that occurred regarding Candida Stokes. She goes on to say about a telephone conversation on February 3rd with John Carnell: Regarding my concern for Candida's reaction to the possibility that she could lose her job.
I realize now that I may have miscommunicated that I believed Candida was mentally unstable that day. That was not the case. And, again --
Q. Tell me what you're -- I've asked you --

A. She says here that she's fit for duty, but then she even notes in the memo that there was a phone call, we went over to Deputy Stokes' house to check on her on February 3rd.
There's no absolutes here. We're in a pretty tight predicament, the police department. If we keep her on and something happens, I'm going to be sitting at this table any ways, because you're going to be suing us for not -- for keeping her on. So it's a difficult predicament that we find ourselves in.
You know, again, Ms. Holmberg, even in her own memo, she even cites that there is some doubt here. It's not a hundred percent that we're dealing with; there is a percentage of the unknown. Life isn't a hundred percent absolutely sure. We tried to do the right thing.
Q. That's true with all your officers, isn't it? You don't have any reason to believe that it's a hundred

percent that somebody won't drop dead from a heart attack?
A. Sure. I could die right now sitting here.
Q. You don't have any reason to think that none of your police officers might not attempt suicide or have some sort of mental breakdown; correct?
A. If they give a signal or sign, I'm certainly going to address it. But --
Q. What would be the signals or signs that you would look for for mental illness?
A. Mental illness?
Q. Uh-huh. Or suicide attempt.
A. Taking a hundred and fifty Tylenol.
Q. Well, we talked about some of the signs. What are some of the signs? Have you received any training in that?
A. No. I'm not a doctor or a psychiatrist.
Q. Just use your own lay

judgment; is that right?
A. I mean, if I told you that I took a hundred and fifty Tylenol pills and showed you the empty bottle -- I mean, I don't know.
Q. We're really getting a little afield here.
My question is: Is that you don't have any proof that none of your other officers won't have a mental health breakdown, do you?
A. No. I have no idea. Five hundred officers, so --
Q. All right. And do you have any understanding what are the signs for identifying potential mental illness?
Do you have any training on it? Let me just ask it that way.
A. No.
Q. No. How this started is I asked you whether you had any evidence that any of the information or statements in this letter are not -- are incorrect, and if so,

what I want you to do is tell me which statements you believe are incorrect, in Plaintiff's Exhibit 16.
A. I believe that Candida Stokes is fit for duty as a police officer in the Montgomery Police Department, is incorrect.
Q. Okay. And that's based on the basis that you've told me before?
A. Yes, ma'am. And, again, in her own memo, she brings up the incident that happened with her concern that Candy -- that Deputy Stokes, pardon me, was going to -- that she was going to commit suicide, and we went over to her house.
Q. Well, she says in here, does she not, I realize now that I may have miscommunicated that I believed Candida was mentally unstable. That was not the case.
That's what she says, is it not?
A. Well --
Q. Just answer my question, please.

A. Ask it again.
Q. She says in here that she realized now that there may have been a miscommunication regarding Candida's mental stability; correct?
A. Yes, she does say that in this letter.
Q. Now, is there any other statement other than the one that you've told me about Deputy Stokes' fitness to return to her duties, is there any other statement in here that you believe is inaccurate?
A. She denies any suicidal ideation.
Q. You don't have any evidence that Ms. Stokes was still suicidal, do you?
A. Again, the phone call from Linda.
Q. Which she states is a miscommunication.
Do you have any evidence -- Put aside the phone call. Do you have any

evidence that as of February 28, 2006, that Deputy Stokes was suicidal or had suicidal ideation?
A. There's no way for me to get in her mind, no. I don't know, she could.
Q. I'm just asking if you have any evidence that she had any suicidal ideation.
A. No, ma'am.
Q. Okay. During the review board, which I think we also have referred to as the trial board, my understanding is that -- it's on here, is that Lieutenant Fleming was an investigator -- was at the hearing as an investigator; is that right?
A. I'd have to look at the --
(Whereupon, Plaintiff's Exhibit No. 17 was marked for identification.)
Q. All right. I thought you would have known. I will show you Plaintiff's 17 and ask if that reflects your recollection?

A. Yes, ma'am, it shows that he was present.
Q. Okay. Now, Lieutenant Fleming didn't conduct any actual investigation in this case, did he?
A. No, ma'am. He was the commander of internal affairs.
Q. Why was he in on this case? He was not in on all of them.
A. He sits in on quite a few of them, almost all of them.
Q. He is the chief's assistant; is that right?
A. He was. He retired.
Q. Okay. He was. And my understanding also was that while the deliberations were occurring, that both Lieutenant Fleming and you stayed in the room?
A. No, ma'am.
Q. Are you sure about that?
A. Yes, ma'am.
Q. Okay.

A. I mean, if I'm not on the board, I'm -- I don't remain in the room while they deliberate.
Q. I'm asking you about this particular situation. Are you positive that you and Lieutenant Fleming did not remain in the room while the deliberations occurred?
A. I was not in the room when they were deliberating.
Q. You're positive?
A. I'm positive, I was not in the room while they were deliberating.
Q. Okay. Why did -- Why did, if you know, Mr. Carnell even go through the motions of asking for a fitness-for-duty evaluation?
MR. BOYLE: Object to the form.
A. You will have to ask him.
(Whereupon, Plaintiff's Exhibit No. 18 was marked for identification.)
Q. Let me show you Plaintiff's

Exhibit 18. I'm assuming you've seen this before.
While you're reading it --
MS. MATTISON: Let me ask you this: Is there any part of the file we don't have? The entire internal investigations we have.
MR. BOYLE: If it was in the entire personnel file, we would have.
MS. MATTISON: Would there have been any part of the investigation that's wouldn't have gone in the file?
MR. BOYLE: You would have to ask the internal affairs people. That was before we took it over. It was my understanding -- Now none of it goes into the file.
MS. MATTISON: The problem is is that I don't want to do an investigation of the internal affairs. I think our discovery requests are broad enough to indicate that we should have received anything that internal affairs has. The

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only thing that could be missing is some privileged material.

MR. BOYLE: And again, that is -- Judging from the copy I have, you have everything that they have. Everything I've ever seen on this case is contained in all the personnel files. I don't think they maintain a separate copy of them. And I'm not aware of anything you haven't received as far as this case or any of the other cases.

And you and I have had the discussion if this had been after January, we'd be in a whole different fight about that, but they're in there now.

Q. All right. Did you have any notes that you took involving this matter?

A. No, ma'am.

Q. All right. I'm assuming -- Back to the question. I'm assuming that you've seen Plaintiff's Exhibit 18?

A. Yes, ma'am.

Q. Now, in fact, Chief Baylor was

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wrong when he told the mayor that charges one and two were sustained, because they were not both sustained, were they?

A. You're right.

(Whereupon, Plaintiff's Exhibit No. 19 was marked for identification.)

Q. Okay. Let me show you Plaintiff's Exhibit 19. I'm assuming you've seen this before?

A. Yes, ma'am.

Q. All right. And this was written or you signed it on January 27th, 2006, is that right?

A. Yes, ma'am.

Q. And you indicate -- I'm not going to read the whole thing, but basically that her job performance is up to standard; that she does an outstanding job; and that you recommend that she receive her merit raise; is that correct?

A. Yes, ma'am. This was prepared by BHP, which I believe is Sergeant

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Pemberton.

Q. But you signed it; right?

A. I signed it, yes.

Q. And I assumed you wouldn't have signed it without reading it and agreeing with it; is that correct?

A. That's correct. I read it.

Q. Okay. Did you think generally that Corporal Stokes was a good employee?

A. I did. She's a good officer.

(Whereupon, Plaintiff's Exhibit No. 20 was marked for identification.)

Q. Okay. Now so far I haven't seen anything -- There's now been a recommendation to terminate her -- let me -- Just to clarify on the Record, I'm going to paper clip this.

Let me mark this as Plaintiff's Exhibit 20. And this has on the very back an acknowledgement by Deputy Stokes that she received the material; is that correct?

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A. Yes, ma'am.

Q. But so far I haven't seen anything in writing that notifies her that you had recommended termination prior to the trial board hearing.

Can you point to me any papers that indicates that she was aware that there had been a recommendation that she be terminated?

A. It's part of the package that they're given.

Q. I can show you her personnel file if that would help you -- we will take another short break at least, because I need to do something, and you're welcome to look at it during that time period.

A. If you could show me, if it's -- I can lead you right to it. I know that it's part of the package.

Q. Okay. Is what you've just been handed there, the package?

A. Yes, ma'am.

MS. MATTISON: Any problem

with us marking that and getting us copies because I'm not --
MR. BOYLE: You've already got a copy of it.
MS. MATTISON: I know, but it's not together.
MR. BOYLE: That's not my fault.
MS. MATTISON: I'm not sure what's --
A. It's not here. It's not here.
Q. Okay.
A. And the document says it's to Chief Baylor from the division commander, and it says basically Officer Smith has been -- is being charged with Article 1, Section 1.330, duties of responsible employment engaging in any activity. This is unacceptable and I therefore recommend that Officer Smith be dismissed from the Montgomery Police Department.
MS. MATTISON: Okay. If I just mark this and we get copied as the

packet.
MR. BOYLE: Yeah. I just need to make sure I get copies of it back.
MS. MATTISON: Absolutely.
(Whereupon, Plaintiff's Exhibit No. 21 was marked for identification.)
MS. MATTISON: All right. I'm going to mark Plaintiff's 21 as the packet.
Q. Did you have, after you were at the mayor's hearing on April 27th and we -- Let me ask you this, I'm having a hard time figuring out who wrote this. You may not know yourself.
Let me show you Plaintiff's 24, it is in the packet. Do you know who wrote that?
(Whereupon, Plaintiff's Exhibit No. 24 was marked for identification.)
A. I'm sorry, I don't.
Q. Now, as I understand it. During this entire -- You were aware that

Ms. -- that Deputy Stokes was not happy about the decision not to return her to a on-the-street, I guess, if you will, police officer as soon as she was released to return to work; correct?
A. Yes.
Q. All right. So I think if you look back in there, the documents indicate that she was released to return to work somewhere around January 19th or 20th. And when the determination was made that she would either go on administrative leave or be assigned administrative duties, Detective -- Deputy Stokes complained about that decision, issued her -- or notified the department of her dissatisfaction with that decision; correct?
A. I don't remember how that came to me. I don't think it came in a letter, but just her through her supervisors, maybe, but she was unhappy.
Q. And my understanding also is that -- let me -- before I ask -- You

understood pretty quickly after Deputy Stokes was supposed to return to work that she was unhappy with the decision that she wouldn't be allowed to return to the street?
A. I don't remember exactly when during the process of all of this, because, you know, it occurred in December and whether -- It was in April, so it was a long time. I don't know when.
Q. Do you remember having -- Okay. You may not remember when, but you know at some point you were aware that she was not happy with the decisions that were being made about her job?
A. Yeah. I'm trying to remember who told me that -- She said something to the effect I was a son of a bitch because I come over to her house and -- no offense taken -- that I was acting like her friend and that I was a low-down for recommending dismissal. I took from that that she was unhappy. I mean --
Q. Do you remember that she

talked about her rights under the Americans with Disabilities Act?
A. I don't ever remember her mentioning that.
Q. Do you remember her mentioning it in the hearing, don't you, the trial hearing?
A. I'd have to go over the transcript. And I don't remember specifically.
Q. All right.
A. If I'm not mistaken, she had an attorney at the mayor's hearing.
Q. Right. This is the hearing before that.
A. I don't recall that.
Q. Do you remember Deputy Stokes having a personal conversation with you, an in-person conversation with you, sometime in the beginning of February where -- and obviously this is not verbatim, but --
MS. MATTISON: Hang on. I'm going to take her outside. We'll take a

quick break.
(Recess taken.)
Q. (BY MS. MATTISON): My understanding is that you had a conversation with Ms. Stokes in your office sometime around February -- beginning of February, and about -- just after you went over to her house. Do you remember that?
A. I don't. But go on.
Q. Well, do you have any memory of having any conversations with Ms. Stokes about -- other than what was done in a hearing, about her employment status?
Put aside the whole issue about the excessive force and all that other stuff before this, before the suicide attempt. Did you have any conversations with her as to whether she was going to be fired?
A. Yes. I remember telling her that it was a possibility.
Q. Okay. Tell me what you remember about that conversation. Was it in

your office?
A. I don't remember.
Q. Okay.
A. She brought it up to me.
Q. She brought what up to you?
A. That she was worried or concerned that she may be dismissed. And I told her -- I didn't commit to it, I just said it may happen, it may not; we're just going to have to let this run its course. I remember saying that at her house after Linda called.
Q. Is that the time you remembered it happening or do you remember that happening twice, a conversation about that twice?
A. I do remember that was discussed in her living room, and I don't think -- I don't know if we had a conversation on the same subject again. We may have, I don't remember. But I do remember we did have a discussion about it.
Q. Why did you think she might be

fired as early as February 2nd or 3rd, when the investigation hadn't even occurred?
A. Well, she broached the subject. She knew there was, because of the attempted suicide and the rules and regulations of the department, she even knew. She didn't have to hear it from me, she knew. She knew from the rules and regs of the Montgomery Police Department that such an act might put her job in peril.
Q. Instead of reading her mind, tell me what she said to you.
A. I'm worried about losing my job. I mean, she was concerned about it.
Q. What else did she say?
A. In her living room, we were concerned about her. She said she was okay.
Q. Okay. Now, what do you remember happening in the other conversation with her?
A. I don't recall -- I don't recall having -- We may have had another conversation, but I don't remember. I do

know that we talked about it that day in her living room. But I don't remember, I don't recollect, we may have.

Q. Okay. Did you tell her that you -- words to the effect that you were -- Do you remember telling her words to the effect that you had heard either from the chief or from city hall or somewhere that she would be fired?

MR. BOYLE: Object to the form.

A. No, ma'am.

Q. Possibly you heard that from -- possibly you heard from the chief or from someone from city hall that as early as the beginning of February that Deputy Stokes would be fired?

A. No, ma'am. My recommendation was not influenced by anybody. It was my own.

Q. Well, I'm not really looking at your recommendation. I'm just asking you whether you heard that -- You don't remember

telling Detective Stokes, essentially, that we all know how this would come down -- that basically the chief would make the decision and everybody would know. That y'all know how this would end, that she would be terminated?

A. I think I touched on that a moment ago, but she was concerned, she knew that --

Q. I'm talking about what you said?

A. No, I did not. I didn't say anything about the chief. I purposely stayed away from discussing that with her. I gave her no indication. I said, we'll just have to let this run its course.

Q. You don't remember getting mad at her during that conversation?

A. No, ma'am.

Q. Do you remember telling her that the chief had told you to go to her house?

A. I don't remember saying that.

Q. Well, did the chief tell you to go to her house?

A. I don't remember. I was going to her house to check on her regardless. I don't remember the chief telling me to go to her house.

Q. Have you read the chief's deposition?

A. Yes.

Q. Okay. Is it your testimony that you don't know whether the chief told you to go to her house?

A. I don't remember him saying that. He may have.

(Brief interruption.)

Q. Let me ask -- Let me just ask it straight up this way: Did you or did you not hear from somebody other than Ms. Stokes, prior to the trial board hearing, that it was likely that she would be terminated?

A. No. I mean -- Well, I'm trying to remember when you serve an officer

with their trial board, the recommendation is sent to the chief, so he knew before her trial board what my recommendation was. So, I guess, prior to her trial board, the chief was aware of what my recommendation was.

Q. Well, your recommendation was that she not return -- that she not return to her job from the moment that you heard that she had attempted suicide; right?

A. Can you rephrase the question?

Q. Yes. From the moment that you learned, or -- Within twenty-four hours, let's say, of learning that she had attempted suicide, you had enough concerns that you had determined that your recommendation would be that she not be allowed to return to her job?

A. That's not really a fair question, because we let this run its course, and she was given due process. I mean, we -- I can't say -- The answer is no. I hadn't made up my mind that she was never going to return to work, because I didn't

know. We had to have an investigation, and there was a lot of ground to cover before I could make that determination, so, no, I hadn't made up my mind then.
Q. Well, do you agree with Chief Baylor who testified that anybody who attempts to commit suicide should not be allowed to return to work as a police officer?
A. I have the same beliefs, yes, ma'am.
Q. Okay. I guess that answers that.
Who decided to charge Deputy Stokes with the second charge of responsible employment? Whose decision was that?
A. That was mine.
Q. And when was that decision made?
A. After reading the file.
Q. And the file is -- so that we're clear, is the file Plaintiff's 21?
A. Yes, ma'am. Yes, ma'am.

Q. Okay. And I think you testified that prior to the trial board hearing that you had notified Chief Baylor that it was your recommendation that Corporal Stokes be terminated; is that right?
A. That's part of the package, yes, ma'am. The letter actually is to him from me.
(Whereupon, Plaintiff's Exhibit No. 22 was marked for identification.)
Q. Okay. Now, I'm assuming that you would have gotten the file. This is Plaintiff's Exhibit 22. I'm assuming that you would have gotten the file after Sergeant Bolton completed his investigation?
A. Yes, ma'am.
Q. So you would have gotten it sometime -- you would have gotten it around February 6th, he would have transmitted his investigation to you?
A. Yes, ma'am.

Q. Did you ever tell Deputy Stokes that she would need a letter from her doctor to come back?
A. I don't remember saying that.
Q. May have, you just don't remember one way or the other?
A. No recollection of saying that.
Q. Did you ever tell Deputy Stokes that she was not being charged with anything, that she was just being investigated?
A. No. No, ma'am.
Q. At any point in time.
A. Pardon me?
Q. At any point in time.
A. She may have asked me when the investigation started. And I explained to her, you're just under investigation. You haven't been charged with anything yet because the charges come later if any at all arise. That's a question that I'm asked -- or at least when I was a major, that I

typically would have been asked by an officer. Because you ask for an investigation and they say what am I being charged with? I say, well, you're under investigation, you haven't been charged with anything yet; so let it run its course.
Q. And you are the person that made the decision to charge her?
A. Yes, ma'am.
MS. MATTISON: Give me about five minutes.
(Recess taken.)
MS. MATTISON: I am done as of right now with this witness. I'm still waiting for his employment file and the employee's file.
There's a possibility that we will recall him to ask him some additional questions based on the information that we've seen, and if so we'll agree on that. After we get the files there's a possibility we may recall him.
MR. BOYLE: And what we're

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talking about is she has about an hour -- almost two hours left?

COURT REPORTER: I haven't even added it. I'm sure it's no where near.

MR. BOYLE: I'm guessing about two, two and a half hours.

She may recall you once she goes through some of the personnel files, but it won't be an all day.

And at that time I'll either do my cross or my redirect, however you call it, then -- there's nothing I really need to do. So you're free for the most part.

(The deposition was concluded at 3:40 p.m., June 17th, 2008.)

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REPORTER'S CERTIFICATE

STATE OF ALABAMA,
ELMORE COUNTY,

I, Sara Mahler, Certified Court Reporter and Commissioner for the State of Alabama at Large, do hereby certify that the above and foregoing proceeding was taken down by me by stenographic means, and that the content herein was produced in transcript form by computer aid under my supervision, and that the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings occurring on said date and at said time.

I further certify that I am neither of kin nor of counsel to the parties to the action; nor in any manner interested in the result of said case.

____
Sara Mahler, CCR
ACCR #420

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EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CASE NUMBER: CV2:07-CV868-WHA

CANDIDA STOKES,
Plaintiff,
vs.

CITY OF MONTGOMERY, ARTHUR BAYLOR, CHIEF OF POLICE, et al.,
Defendants.

STIPULATION

IT IS STIPULATED AND AGREED by and between the parties through their respective counsel, that the deposition of ARTHUR BAYLOR may be taken before Leslie K. Hartsfield, at 8650 Minnie Brown Road, Montgomery, Alabama,

DEPOSITION OF ARTHUR BAYLOR taken on the 19th day of March, 2008.

IT IS FURTHER STIPULATED AND AGREED that the signature to and the reading of the deposition by the witness is waived, the deposition to have the same force and effect as if full compliance had been had with all laws and rules of Court relating to the taking of the deposition.

IT IS FURTHER STIPULATED AND AGREED that it shall not be necessary for any objections to be made by counsel to any questions except as to the form or leading questions, and that counsel for the parties may make objections and assign grounds at the time of the trial, or at the time said deposition is offered in evidence, or prior thereto.

IT IS FURTHER STIPULATED AND AGREED that the notice of filing of the deposition by the Commissioner is waived.

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BEFORE:
LESLIE K. HARTSFIELD,
Commissioner.

APPEARANCES:
WIGGINS, CHILDS, QUINN & PANTAZIS, by Ms. Deborah A. Mattison, 301 19th Street North, The Kress Building, Birmingham, Alabama, 35203, appearing on behalf of the Plaintiff.
CITY OF MONTGOMERY, ALABAMA, by Mr. Michael D. Boyle, 103 No. Perry Street, Montgomery, Alabama, 36104, appearing on behalf of the Defendants.

ALSO PRESENT:
Candida Stokes
Rachel L. McGinley
Jason Paulk

****

I, LESLIE K. HARTSFIELD, a Court

Reporter of Prattville, Alabama, acting as Commissioner, certify that on this date, as provided by the Federal Rules of Civil Procedure and the foregoing stipulation of counsel, there came before me at 8650 Minnie Brown Road, Montgomery, Alabama, beginning at 10:05 a.m., ARTHUR BAYLOR, witness in the above cause, for oral examination, whereupon, the following proceedings were had:

ARTHUR BAYLOR
being first, duly sworn was examined
and testified as follows:

THE REPORTER: Usual stipulations?
MR. BOYLE: Yes.
MS. MATTISON: That's fine.

EXAMINATION BY MS. MATTISON:
Q. State your name and address

for the record.
A. Arthur Baylor, 320 North Ripley Street, Montgomery, Alabama.
Q. What is your Social Security number?
A. I don't think you need my Social Security number.
MR. BOYLE: I object to his Social Security number being given. He's just a witness, or even as a defendant, I don't understand why that'd be probative in this.
MS. MATTISON: Your objection is noted. We'll put it under seal.
A. No. My Social Security number?
Q. Yeah.
A. No, ma'am. I don't think you need my personal Social Security number for a city case.
Q. Sir, you're obligated. You're a defendant in the matter and

you're obligated to give me -- we'll put it under protective order.
MR. BOYLE: Well, can I ask what's the purpose of asking for his Social Security number?
MS. MATTISON: There's a number of purposes and I really don't think I have to go through and explain it.
MR. BOYLE: He's sitting in his official capacity and his Social Security number has nothing to do with his official capacity.
MS. MATTISON: He's sitting in his individual capacity.
MR. BOYLE: In his individual capacity, I don't believe so. He was sued as chief of police for the City of Montgomery for actions while he was the chief of police.
MS. MATTISON: Right. I really -- I don't want to argue with you about it. The court rules indicate he

has to give -- he has to answer the questions. I'm happy to -- I've never had a witness, even a witness, be able to withhold their Social Security number. There's a number of reasons why it's helpful. And I'm willing to do a protective order and put it under seal.

MR. BOYLE: We'll stipulate as long as it's kept under seal --

MS. MATTISON: We will definitely keep it under seal.

MR. BOYLE: And --

MS. MATTISON: And if you put this separate, the Social Security number, put the question and just put it separate and seal it and we'll keep it sealed.

MR. BOYLE: I'm still curious as to the need for the Social Security number. All that can be found is personal information about the chief. And again, that would have no bearing on this case.

MS. MATTISON: I'm not going to explain the reasons that I want it.

MR. BOYLE: I think he's entitled before he gives his personal information --

MS. MATTISON: Are you directing him not to answer the question?

MR. BOYLE: Yes, I am.

MS. MATTISON: You're directing him not to answer the question?

MR. BOYLE: Yes. If you can't give me the courtesy of at least explaining to us why you need it --

MS. MATTISON: There's issues involving credibility. That's all I'll say.

MR. BOYLE: Credibility?

MS. MATTISON: Look, I'm not going to fight with you. You know that the court rules say that they have to answer the question. I'm willing to put

it under seal. I have never had a witness not be required to give their Social Security number and he's a party to the case.

MR. BOYLE: I understand he's a party but I also --

MS. MATTISON: I'm not going to fight with you over this.

MR. BOYLE: If you'll let me respond to your statement, I mean, there's no sense in cutting each other off. I have a problem with him giving his personal Social Security number out when it comes to a case involving the City of Montgomery.

MS. MATTISON: I understand that you have a problem with that and that's why we're willing to put it under seal.

MR. BOYLE: Putting it under seal -- the only thing you can derive from that is a credit report or look at his credit history which the Supreme

Court has said that number cannot be used for identification purposes nor purposes outside of the Social Security Administration. This has nothing to do with Social Security.

MS. MATTISON: I'm asking him to produce it to me. I'll put it under seal.

MR. BOYLE: We'll do this. If you will submit to us the protective order prior to, we will then submit the Social Security number. We want to see the language of the protective order prior to giving --

MS. MATTISON: Tell me what you want stipulated in the protective order and I'll put it in. Let's do it right now.

MR. BOYLE: I don't want it to be used for any background check, any credit check.

MS. MATTISON: No, I'm not going to agree to that.

MR. BOYLE: I'm not allowing you to do a credit check on our chief of police.
MS. MATTISON: Would you mark this, please.
So you're directing him not to answer?
MR. BOYLE: I am. And if the Judge orders us to, at that time we will then --
MS. MATTISON: If the Judge orders us, we're going for cause with it.
MR. BOYLE: That's fine. I'm going for cause. I mean, that's ridiculous.
MS. MATTISON: It's not ridiculous. I've practiced 28 years and I have never had somebody not be required to give me their Social Security number.
MR. BOYLE: You've never given -- been given one from the City of

Montgomery.
MS. MATTISON: Well, there's always a first time.
Tell me what you did to prepare for this deposition.
A. Excuse me?
Q. (By Ms. Mattison) Tell me what you did to prepare for this deposition.
A. What I did?
Q. Yeah, what you did to prepare for the deposition.
A. The only thing is I spoke with the city attorney and reviewed just a few pieces of paper. That's it.
MS. MATTISON: Sometimes I say bumblebee. It's kind of an odd word and it leads me to track something in the deposition, so I'm going to say it now.
How long did you meet with the city attorney?
A. I don't know.

Q. Roughly?
A. Just a few minutes.
Q. A few minutes?
A. Yes.
Q. Did you have any conversations with him prior to that time?
A. Prior to that time?
Q. Yes. About this deposition or about this case?
A. To the best of my knowledge, the only conversation I had with him was saying he needed me to give a deposition.
Q. How many times -- is that the only time -- was it this attorney that you're sitting here with or either one of these attorneys?
A. I think it was Michael Boyle that I spoke with.
MS. MATTISON: I'm sorry. I didn't get your name.
MR. PAULK: Jason Paulk.

MR. BOYLE: He's a law clerk with the city.
MS. MATTISON: I assumed so.
Have you had any discussions with anyone else other than Mr. Boyle about this case?
A. I'm sure when the case was going through I had discussions with several people. And Colonel Murphy would have been one of them because he was charging authority.
Q. Is this while the events were transpiring or since that time?
A. I'm sure -- again, I don't remember much about the case, but I'm sure to the best of my memory I spoke to him and maybe someone else. I don't know who it would have been.
Q. Do you know whether you spoke with the mayor or the mayor's assistant? And this is while the events were transpiring.
A. Probably spoke to the -- and

to the best of my knowledge, it might have been the mayor's assistant but I'm not positive.
Q. You don't remember any of those conversations?
A. I don't remember exactly. If I had the conversation, no, ma'am, I don't remember exactly what I said. I could possibly go back one day and look but --
Q. What would you look at?
A. I don't know. I'd have to go and try to find something. But my conversations with the mayor or the mayor's assistant, I'm going to have to assume I did talk to one of them.
Q. So you had one short conversation with Mr. Boyle prior to today's deposition. And I'm now talking after the litigation was filed, after these events occurred which gave rise to Ms. Stokes' termination, you had a conversation with Mr. Boyle?

A. No, that's not what I said. I said I remember speaking to him when he called me and said that we had to give a deposition. It might have been another time also but I don't recall.
Q. Well, did you meet with him at all?
A. Yes, I met with him the one time.
Q. When was that?
A. Yesterday, I think.
Q. And how long did you meet with him?
A. A very short period of time. I don't know the time.
Q. An hour?
A. I don't know the time. It was a very short period of time.
Q. Well, you would know whether it was 15 minutes or five hours, wouldn't you?
A. Okay. I'll answer you one more time. It was a very short period

of time --
Q. Was it under --
A. -- but I don't know the exact time.
Q. Was it under an hour?
A. It was a very short period of time. I don't know the time.
Q. Was it under three hours?
A. Same answer.
Q. Mark this, please. Bumblebee.
So it's your testimony you don't know whether it was under three hours you spent meeting with Mr. Boyle?
A. Under three hours?
Q. Uh-huh (affirmative response).
A. Oh, yeah, it was under three hours.
Q. Was it under two hours?
A. I don't know the exact time.
Q. What time did you meet with him?

A. I don't even know.
Q. Mark this. Bumblebee. Is it your testimony you don't know whether you met with him for under two hours?
A. I told you I do not know the exact time that I met with Mr. Boyle but it was a very short meeting.
Q. The question is not the exact time. I'm asking you for how long the meeting went. Is it your testimony --
A. That's what I said, a very short time.
Q. Excuse me. Is it your testimony that you don't know whether you met with the attorney for under two hours --
A. My testimony --
Q. -- is that your testimony?
A. My testimony is I met with him for a very brief period.
Q. You're going to need to answer my question. Is it your

testimony that you don't remember -- this happened yesterday. You're the chief of police and you don't remember whether you met with your attorney for under two hours?

A. I met with him for a very brief period of time. It was very short.

Q. Please answer my question.

A. I am answering your question --

Q. Excuse me, sir.

A. Excuse me. I am answering your question.

Q. Excuse me, sir. The court reporter can't take down both of us, so out of courtesy, please let me finish my question before you answer. Is it your testimony that as the chief of police, that's your job title; is that correct?

A. Correct.

Q. That you don't remember that

within the last 24 hours whether you met with your lawyer for under two hours?

A. I said I did meet with the lawyer and I said I met with him for a very brief period of time. Again, my answer is it was very short.

Q. Do you remember whether it was under two hours? I'm going to continue to ask that question until you give me a yes or no answer.

A. You can continue to ask, but it was very brief and I did not look at my watch to see what time -- how long we met.

MS. MATTISON: Bumblebee. We're going to be going to the Court very quickly if this deposition continues. Obviously this gentleman can remember whether he met with you for under two hours or not.

MR. BOYLE: He's --

MS. MATTISON: Excuse me. Please let me finish.

MR. BOYLE: Go ahead. I apologize.

MS. MATTISON: You know what he's doing. I mean, obviously there's a great difference in a meeting that lasts 15 minutes or a meeting that lasts two hours or above. And if this gentleman who is the chief of police can't remember within 24 hours how much time that was, then we're going to have to get some direction from the Court.

Who else was there, if anybody?

A. I was going to say --

Q. Who else was there, if anybody?

A. The gentleman here (indicated).

Q. Mr. Boyle?

A. No. This gentleman --

Q. Oh, okay. What is your name?

MR. PAULK: Jason Paulk.

MS. MATTISON: Jason Clark.

MR. PAULK: Paulk, P-A-U-L-K.

MS. MATTISON: Thanks, Jason.

And what papers did you look at while meeting with the lawyer?

A. The -- where I think the lawsuit, where it was filed in the U.S. District Court.

Q. You looked at the complaint?

A. What was sent to me already. I think he just gave me a copy and showed me that, briefly. I don't think we went over the whole thing. He just showed it to me and -- because I didn't remember much about the case at all. And I'm not sure if he had any other paperwork or not. Like I said, it was a very brief --

Q. Understand. May have been up to two hours. You can't remember.

In any event, did you look at anything other than the complaint? You said you looked at a few papers.
A. Well, it was more than one page. I don't -- I think it was the information on having this deposition, where it was, because I was not familiar where it was and the exact time.
Q. Did one of the pieces of paper that you saw look similar, that's not the latest notice, but did it look similar to that (indicated)?
A. Yes, ma'am, very similar.
Q. Have you been asked -- did you look at anything else that you haven't told me about?
A. This paperwork right here, I think.
Q. Anything else other than the complaint and the notice of deposition?
A. I don't remember if we did. I think -- again, I think it was that

paperwork had two or three papers and the court paperwork.
Q. I would note that as I had remembered correctly just for your information you realize you're being sued in your individual capacity as well as your official capacity; correct?
A. Yeah -- if that's what it says, yes. That's fine.
Q. Did you do anything else other than meet with lawyers and look at the pieces of paper that you've identified to me in order to prepare for this deposition?
A. Yeah. I talked to Colonel Murphy for a short period of time when I got back to the office and asked him about the case and that was a very brief conversation. And I looked at some of the paperwork, I think, out of a personnel file concerning the case.
Q. And did you talk with Colonel Murphy for under an hour?

A. To be honest with you, it was, again, a very short conversation.
Q. Was it a conversation that lasted under an hour?
A. Ma'am, I cannot tell you the time frame but it was very short.
Q. Could it have been six hours?
A. No, it couldn't have been six.
Q. Could it have been three hours?
A. I don't think so.
Q. Could it have been two hours?
A. Again, the time frame was very short.
Q. The question is: Could you have spoken to Colonel Murphy for up to two hours?
A. I might have spoken to Colonel Murphy on several different things and it was not just about this

case so I don't know the time frame that I spoke with him. Because we talked about more than one thing.
Q. Did your -- was it an in-person conversation?
A. I'm sorry?
Q. Was it an in-person conversation?
A. Yes. Yes.
Q. Did you meet with him for more than two hours or don't you remember that?
A. Again, it was a very brief conversation concerning this case and we discussed other things.
Q. Do you remember whether it was -- whether the meeting lasted --
A. I don't think --
Q. Excuse me, sir. Please let me finish my question because the court reporter can't take us both down.
A. I understood what you said. Thank you.

Q. Do you remember whether your meeting yesterday with Colonel Murphy lasted more than two hours?
A. It was a very brief conversation and I don't know the time frame but it doesn't appear to me that it was two hours.
Q. Did it last over an hour?
A. Again, I'll answer the question just like I did the others. I don't know the time frame. I did not sit there and watch my watch.
Q. You don't have a sense of time, is it your testimony that you don't have a sense of time unless --
A. That --
Q. Excuse me, please.
MR. BOYLE: Object to the form.
Q. Is it your testimony that you don't have a sense of time unless you're looking at your watch that you don't have a general sense of whether

something is an hour, is that your testimony?
A. My testimony is exactly what I said previously.
Q. Bumblebee.
A. I don't know the time that I sat and talked to Colonel Murphy but it was very brief concerning this case.
Q. Bumblebee. What other matters did you speak to Colonel Murphy about?
A. Again, I don't recall all of that because we were talking about several things. And I don't remember because we were talking about different things in the meeting just like I would with the other deputy chief that would be there.
Q. Is it your testimony that you don't remember anything else that you spoke with Colonel Murphy about other than Ms. Stokes?
A. I don't.

MR. BOYLE: Object to the form.
Q. So your testimony is that you spoke with Colonel Murphy yesterday but you don't have any memory of any of the other topics even generally that you spoke with Colonel Murphy about, is that your testimony?
A. My testimony is I speak with literally hundreds of people a day. And when I spoke to Colonel Murphy, I think we talked about other things other than this case. And I don't remember what we were talking about.
Q. Bumblebee. Do you have problems with your memory, Mr. --
A. None whatsoever.
Q. -- excuse me. Mr. Baylor, do you have problems with your memory?
A. No.
MR. BOYLE: Excuse me. Can you address him as chief, please? He is the chief of police and that's his

title, just asked as a courtesy.
Q. That's fine. I don't have a problem with that. Do you have a problem with your memory?
A. No.
Q. Do you remember what you had for breakfast this morning or whether you had breakfast?
A. Yes.
Q. What did you have?
A. An apple.
Q. Do you remember what you had for breakfast yesterday?
A. No, I don't.
Q. Okay. What role, if any, did Colonel Murphy play in Ms. Stokes' termination?
A. Well, he was, at that time, he was Major Murphy and he was division commander. And he's the one that recommended her dismissal.
Q. On what basis did he recommend her dismissal?

A. Due to the act that she attempted to take her life.
Q. Is that the only reason that Deputy Murphy recommended her --
A. I mean, that was the cause --
Q. Excuse me. Is that the only reason that Deputy Murphy recommended Ms. Stokes' termination is the fact that she attempted suicide?
A. Is that the only reason; she was charged with, if I recall right, two charges: One, duty to remain fit, and another one, duties of responsible employment --
Q. No. No. The question --
A. No, let me finish, please.
Q. Go ahead. But that's not the question. The question is: Was the only reason that deputy that -- that Deputy Murphy, I'm sorry, recommended Ms. Stokes' termination was because she attempted to take her own life?

A. Well, I was giving you the charges. That's the reason that he recommended dismissal because of the charges that I was telling you in a synopsis form.
Q. Which resulted from her -- from Ms. Stokes attempting to take her life; correct?
A. Yes.
Q. Any other reason?
A. Not to my knowledge.
Q. Now, have any other city employees attempted suicide?
A. Since I've been chief?
Q. At any point.
A. I'm sure they might have been. Since I've been chief, I know of none, no.
Q. What about before you were chief? You're aware of at least one other, are you not?
MR. BOYLE: Object to the form.

A. I don't know who you're talking about. And I might be but I don't recall -- I'm trying to think of someone --
Q. Go ahead. I'll let you think.
A. I can answer real easily since I've been chief, there's none.
Q. No. We answered that question. The other question is: You're aware of other city employees who have attempted to take their own life prior -- prior to you being chief; correct?
A. City employees just in general?
Q. Uh-huh (affirmative response).
A. I -- I'm -- I don't recall. If you give me a name, I can tell you. Yes, I might be able to tell you. I just don't recall.
Q. You don't recall any city

employees including any police officers, you don't know of any other -- any other city employee who attempted to take his or her own life, is that your testimony?
A. Well, one, now I wouldn't have much jurisdiction over any other city employee. And before I became chief of police, my knowledge would probably unless they were working directly for me when I was here previously might be very limited.
Q. The question is very simple. Are you aware of any other city employee who attempted to take their own life at any point?
A. I don't -- I don't recall one at this time, but again, I've been in and out of here for 30 years so.
Q. Do you know Lailoni Lee?
A. Yes. I don't know her personally but I know of her, yes.
Q. Did she attempt suicide?

A. No. What they came up with when they investigated her, and she was not working for me, to the best of my memory, it was accidental. It was ruled accidental, to the best of my knowledge.
Q. What was your position at the time?
A. I don't remember my rank, but I remember going to the hospital when she was at the hospital.
Q. Bumblebee. And who did the investigation on Ms. Lee?
A. I'm not -- I don't know who did the investigation.
Q. How long have you been with the Montgomery Police Department?
A. First time 20 -- almost 22 years and I've been back as chief for about 3 1/2 years.
Q. When did you start working -- let me back up. What's your educational background? Where did you graduate from high school assuming --

A. Lanier High School.
Q. What year?
A. '74.
Q. Did you go to college?
A. Yes.
Q. Where?
A. Troy State University.
Q. Did you graduate?
A. Yes.
Q. What year?
A. '77, I think it was.
Q. And then what year did you begin working for the Montgomery Police Department the first time?
A. Same year, '77.
Q. What was your first position?
A. I guess they call them trainees or just working in the building until you could go to the academy.
Q. And then when did you go to the academy?
A. The end of '77.

Q. How long were you at the academy?
A. How many weeks, I guess it was two, 2 1/2 months I think then at the academy.
Q. Then what was your position?
A. Police officer.
Q. How long were you a police officer?
A. I stayed police officer until I was promoted to investigator or detective. I think that was about three years, three or four years, not exactly sure on the exact time.
Q. Approximately '81?
A. I'm sorry.
Q. Approximately '80, '81?
A. Approximately.
Q. How long were you an investigator slash detective?
A. I think I was promoted to sergeant and I think after I'd been

there a total of five years, in that neighborhood.
Q. How long were you sergeant?
A. I think made lieutenant in three years so I think it was in the eighth year, somewhere in that vicinity.
Q. So that would be about '89, '90?
A. No.
Q. What year were you --
A. I think it was three years or so for investigator, five years for sergeant. I think eight years for lieutenant so whatever the years add up to. I'm not sure.
Q. I've got '80 or '81 you were investigator, detective. You held that position for five years did you say, I thought?
A. I said --
Q. Roughly?

A. Investigator I said for approximately I thought it was three.
Q. So sergeant would have been approximately '83, '84; is that right?
A. I'm -- I'm not sure -- exact sure of the time. I can tell you about the time frame.
Q. That's what I'm looking for about the time frame.
A. I started in '77. I think I made investigator or detective or whatever it was called then. I think it was about three years out approximately. I made sergeant in about five years. Made lieutenant I think in approximately eight years. And the reason I'm trying to remember is '89 I think is when I went off to the FBI academy and I think '89, '90 where you have education is when I received my master's degree from Troy also.
Q. And so how long were you lieutenant, did you say eight years?

A. No, I didn't -- didn't say that.
Q. How long were you lieutenant?
A. I want to say lieutenant -- I was lieutenant for three or four years also, I think.
Q. Then what was your position?
A. Captain.
Q. How long were you captain?
A. I'm only, and this is a true guess, three years or so approximately. That's guessing.
Q. Then what was your position?
A. Major.
Q. How long were you major?
A. Until I retired in October of -- I think it was '98.
Q. And then after you retired in '98, then where did you go?
A. I worked for the Unified

Judicial System as a judicial security coordinator slash deputy marshal.
Q. And how long were you in that position?
A. Approximately, I think it was -- I think it was six to seven years approximately, I think.
Q. Then what was your position, then what did you do?
A. Came back here as chief of police.
Q. Beginning in?
A. November 29, '04.
MS. MATTISON: Can we see whether the faxes are here?
MR. BOYLE: Ma'am?
MS. MATTISON: Can we see whether the job description is here?
MR. BOYLE: I have to call. I have to step out and call. We'll have to take a recess. If you want to do that, we can convene.
MS. MATTISON: Makes sense.

(A brief recess was taken.)

Q. (By Ms. Mattison) As chief of police, what are your duties?
A. A number and I -- it's to -- the running of the Montgomery Police Department.
Q. Tell me specifically.
A. I don't think I can go down every duty that the chief --
Q. Tell me what you can remember.
A. I don't have a problem with my memory, but what I'm telling you is the everyday running of the Montgomery Police Department as a whole.
Q. I understand that. But give me some specific duties that make up that duty.
A. Everything from coming in in the morning to having staff meetings to handling personnel issues to probably

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thousands more duties.
Q. Well, I need to know what your actual duties are besides -- I'm sure your job description does not say running of the police department, that you have actual tasks that are assigned to you. What I'm asking you is to tell me what you can remember of those tasks.
A. I'll be glad to get you a copy of --
Q. I'm asking you --
A. Let me finish, please, ma'am.
Q. Go ahead.
A. I'll be glad to get you a copy of what the personnel says the duties are of the police department but I don't remember every one of those duties because I'm sure it's more than what's listed on that personnel list.
Q. Well, I'm asking you to tell me what are your duties. Let's forget the list right now.

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A. The running of the Montgomery Police Department, handling personnel issues, handling staff issues, handling the -- being in charge of the crime for the City of Montgomery and that's a nutshell of what I do. Now, if you want to break it out, it'd have to be something that I sit down and get from the personnel what they list as what I have to do.
Q. So you're -- are you testifying that other than those four generic duties you can't me give any more specificity without looking at your own job description, is that your testimony?
A. That's not what I said.
MR. BOYLE: Object to the form.
Q. Bumblebee. Handling -- so you basically said that you run the -- you run the police department and that that includes handling personnel

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issues --
A. No, ma'am.
Q. Excuse me. Let me finish.
A. No, ma'am, that's not what I said.
Q. Excuse me. Handling personnel issues, handling staff issues, and being in charge of the criminal -- I didn't write down the rest, the criminal acts in the City of Montgomery I assume is what you're saying; is that right?
A. As I said earlier, no, ma'am. I said it's literally thousands of things that the chief has to do. I put those in a nutshell to tell you what I basically do.
Q. I understand.
A. Everyday running of the Montgomery Police Department.
Q. So the handling of the personnel issues, is that something you're saying you, quote, in a nutshell do or do not do as part of your job

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duties?
A. I said that's something I -- I do. I have to do, yes.
Q. And what is included in handling the personnel issues?
A. Any issues that come with personnel that would rise to the level for the chief to be involved especially disciplinaries once they come up to my level.
Q. What does it take to get something up to your level?
A. Once it's gone through -- if it's needed, through the shift level or through the internal level and it comes up through the chain of command to myself.
Q. And what's your responsibility with those discipline issues? You have the authority to approve or disapprove discipline?
A. Yes, ma'am, on my level it's a recommendation. The mayor is the only

appointing authority that makes the final decision like; for instance, for dismissal.

Q. Well, do you have final authority on any discipline issues other than dismissal? Can you suspend somebody without having it --

A. No.

Q. -- approved by the mayor?

A. He's sent -- he's the appointing authority according to the city charter and all that paperwork is forwarded to the mayor.

Q. Do you have authority to do -- to undertake any personnel action of any type either hiring, discipline, meaning suspension, warnings, anything of that nature without having to seek final approval by the mayor?

MR. BOYLE: Object to the form.

A. If a person is going to, in essence, lose time or money, the mayor

is the final -- final authority.

Q. So it sounds like you would have -- you would have the authority then to give an oral or written warning which did not involve a loss of time or money; is that correct --

A. Yes, ma'am.

Q. -- without going to the mayor?

A. Yes, ma'am. But usually to be honest with you, the chief is not going to do that. That's usually going to be done on their shift level.

Q. I understand. I'm asking your authority.

A. I understand that but I want to explain to you what I was saying.

Q. That's fine.

A. Okay.

Q. Do you have -- if you recommend against a discipline such as a suspension or a termination, I'm assuming that the mayor has the

authority to overrule you on that?

A. Yes, ma'am.

MS. MATTISON: Do you keep the tapes of these depositions?

THE REPORTER: Uh-huh (affirmative response).

MS. MATTISON: Would you please keep this one?

THE REPORTER: Uh-huh (affirmative response).

MS. MATTISON: Thank you.

Do you have the authority to hire within your department without getting approval by the mayor?

A. My department does all the backgrounds and they do all the hiring but the final forms have to go down to the mayor. To answer your question, he has final approval over who's hired and who's fired.

Q. Even, for example; like an administrative support staff person would have to be finally approved by the

mayor?

A. Yes, ma'am.

Q. So in terms of personnel issues, it sounds like that your duty is primarily recommendation duty with final authority being reserved for discipline issues which do not involve time or money, is that fair to say?

A. I'm not sure if I followed everything you said.

Q. It sounds like that with regard to discipline -- I'm sorry, with regard to personnel issues, that you have recommending authority only with the exception of discipline which does not involve time or money?

A. In a nutshell, yes.

Q. And do you have the -- the authority to approve transfers or are transfers -- is that also -- and I'm talking about within the police department, or is that something that is also subject to the mayor's authority?

A. I have that authority.
Q. So you've got discipline that doesn't involve time or money plus interpolice department transfers; is that correct?
A. The transfers, yes. Discipline in general, yes, what you said.
Q. Anything that you can think of that falls outside the general rule of time and money?
A. Because what I was telling you a number of those are really done on the shift level.
Q. I understand that.
A. I just wanted to explain it to you. Yes, ma'am. Yes, ma'am.
Q. Despite the fact that something may be done on the shift level, i.e., somebody's immediate supervisor may give them a written warning, you still as the police chief have the authority to intervene in that

if you thought the warning was -- was not merited?
A. Yes, ma'am.
Q. Now, in terms of pro -- I'm sorry. Actually, in terms of promotions, do promotions within the police department have to be approved by the mayor?
A. Yes, ma'am.
Q. All promotions?
A. Yes, ma'am.
Q. In terms of inter -- intradepartmental transfers, what is the procedure for that? Let's say somebody wants to go, for example, from a, you're going to need to help me on the correct nomenclature, but from a police officer to an investigative detective person, what's the -- I'm assuming police officers can ask to transfer -- do you have -- well, let me back up. Within the police department you've got --

(Plaintiff's Exhibit No. 1 was marked for identification and attached hereto.)

Q. Show you Plaintiff's Exhibit 1. Does this appear to be a very general organizational -- accurate organizational chart for the City of Montgomery?
A. Yes, ma'am. It's for the City of Montgomery. It's not the police department.
Q. I understand that.
A. Yes, ma'am.
Q. Is there an organizational chart for the police department?
A. Yes, we have an organizational chart.
MS. MATTISON: Bumblebee. Any reason we can't get that?
MR. BOYLE: No, ma'am.
Q. (By Ms. Mattison) And was this generally the organizational chart

at the time that Ms. Stokes worked with the department?
A. I'm not that familiar. I deal with the police department. All these other departments I have no dealings with.
Q. You don't have any dealings --
A. Well, we have our own organizational chart.
Q. I understand that. But you're -- is it your testimony you're not familiar with --
A. Yeah, I'm familiar with the department.
Q. Hang on, please.
A. I'm sorry.
Q. This organizational chart, as I understand it, appears to you to be accurate as of right now?
A. To the best of my knowledge, yes.
Q. I understand that. Now, to

the best of your knowledge, does it appear to be accurate as of two years ago? Do you see anything that looks -- that looks -- that jumps out at you that may have changed?
A. I'm not sure downtown redevelopment was part of the city then.
Q. Okay.
A. And that's what I'm saying, I'm not sure. Things like the fire department, finance department, the city clerk, I'm familiar that they've been there forever. But downtown redevelopment, I don't know when that came on to this chart.
Q. As I understand it, Ms. Stokes was technically employed by the City of Montgomery; is that correct, versus the police department because the police department is apart of the City of Montgomery; is that correct?
A. Yes, ma'am.

Q. Are you an employee of the City of Montgomery?
A. Yes, ma'am.
Q. And you report to the mayor, I assume?
A. Yes, ma'am.
Q. And tell me what the organizational chart is generally of the police department?
A. Of the police department itself --
Q. Yes.
A. -- it would be the chief, two deputy chiefs. And I'm not sure, I don't think we had two deputy chiefs back then. Are you asking for now or for back then?
Q. Now and then if you can do exactly what you just did which is tell me what the difference may have been.
A. Right now it's chief, two deputy chiefs.
Q. Who are they right now?

A. Colonel Murphy and Colonel Thompson.
Q. And who would be -- who would be under them?
A. In a nutshell, sort of the Thompson -- well, Murphy has the uniform.
Q. The uniform officers?
A. Not a hundred percent but we call it sort of the uniform side of the house. And Thompson has sort of the plain clothes side of the house and that's not a hundred percent.
Q. I understand. Are there -- is there a detective unit?
A. Yes, ma'am.
Q. Is there detectives --
A. Division.
Q. -- on both sides? Is it called division, is that what it's called?
A. Yes, ma'am.
Q. Would there be a detective

division in both under Murphy and Thompson or is it --
A. No, ma'am.
Q. Explain that to me.
A. Detective division at this time is under Colonel Thompson.
Q. Now, is it a promotion if you go or does it depend, if you go from a -- it probably would depend on what level you were at. Are there any lateral positions between the detective unit and any of the uniform officers? Let me ask in a better way.
What I'm trying to figure out is that if somebody, and I'm just trying to get a feel how this works, if a uniform officer wants to move into the -- transfer to the detective division, I'm assuming for some people that would be a promotion based on what level they were as a uniform officer, is that fair to say?
A. No, ma'am. The -- I'll try

and explain it. They have to be promoted for it to be a promotion.
Q. Right.
A. They have to take the test and the promotion would be a detective or a corporal, same under the personnel rules, okay. So if, and I'm just saying if, if someone transferred from patrol to detective division, it's no guarantee -- they wouldn't get -- unless they're on the promotion list and getting promoted and the mayor has approved, I recommended and the mayor's approved the promotion, that's the only time they would get the next rank.
Q. So it's kind of like department -- it sounds like it's kind of like, and you may not have enough -- you may not have experience with the State to know one way or the other but; for example, the state government you have to get on the register and take test, et cetera, and depending on the

slot, whether there's a slot available, then -- is that -- forget the state government. Let me ask it this way. It sounds like you have different people who are on the list for the promotion who pass the exam, and when there's vacancies available, then promotions are made?
A. In essence, yes, ma'am.
Q. Are there ever positions where transferring, if you will, into the detective division is -- is a lateral transfer and not a promotion?
A. Yes, I'm sure -- I'm sure there has been.
Q. Is there -- okay. Now, is there another level of supervisor or the divisions -- why don't you tell me. You got a detective division. What are the names of the divisions under the chiefs, under the deputy chiefs?
A. Deputy chief, right, yeah. Detective division under Thompson.

Juvenile division, vice and narcotics, or special ops, it's called special ops. I'm sorry. And I think the academy is under him also.
Q. What about Murphy?
A. Murphy would have patrol traffic, community policing.
Q. Patrol traffic two different or the same?
A. Two different at this time.
Q. Community policing.
A. Patrol traffic, community policing and he also has administrative.
Q. Now, I'm assuming within the divisions there is some level of supervision within that. I don't think we need to get the detail across the board in all of those. But am I right on that assumption?
A. Yes, ma'am.
Q. Now, what division was Ms.

Stokes in, patrol?
A. I think she was in patrol division, I think.
Q. Do you remember who her immediate supervisor was?
A. Her immediate supervisor, no, ma'am.
Q. Was deputy -- was Murphy, did he have the same position at the time that he does now?
A. No, ma'am.
Q. I didn't think so. What was his position at the time?
A. He was division commander patrol.
MS. MATTISON: Did you get the job description?
MR. BOYLE: They didn't come in yet. That's why I sent him out to check.
Q. (By Ms. Mattison) Now, all right. You said that you also -- we're going back to your duties. That you

also handle staff issues. Is there anything that is involved in handling staff issues other than the personnel issues, were you thinking of any distinct duties other than what we've already talked about in terms of personnel issues?

A. When I say staff issues, I'm just, this is just examples, of like, everything from crime mapping, crime stats, dealing with anything where we meet as a staff that I'm over that we try to plan for now and for the future and look at what we've done in the past and et cetera, et cetera.

Q. So is it fair to say that's not so much staff issuing, that's really more planning and development or is that separate?

A. Again, it's a combination of -- that's why I just tried to give you a nutshell of -- but I think it's staff issues and it's planning and

development. It's -- I mean, it's just almost everything in the kitchen sink.

Q. And then in terms -- in terms of the overseeing the criminal activity, I mean, obviously there's some planning and development involved in that. What are the major functions that you have in terms of overseeing the criminal activity other than personnel issues, planning and development?

A. Well, overseeing what's going on in the city as far as crime, comparing it to others, and that's why I said it's all combined in a nutshell. All of it that's part of it in trying to keep the city as safe as we can, trying to make it better and trying to plan for the future for the city no matter who's here.

Q. Have you received any training on any -- on employment laws?

A. Yes, ma'am, I think so.

Q. You sure or --

A. Yes, I'm almost sure. I don't remember exactly when or where. I'm just --

Q. So is it a fair statement to say you're assuming you must have received training but you don't have any memory of the specifics?

MR. BOYLE: Object to the form.

Q. Is that fair to say?

A. I don't remember right this second specifically where I received the training.

Q. Do you remember what you learned from the training?

A. Exactly, no, ma'am. If you have a specific question, I'll be glad to answer it for you.

Q. Do you know; for example, what the Americans with Disabilities Act or Section 504 covers?

A. In general, yes, ma'am.

Q. Do you know what Section 504

is?

A. I don't 504. I know what the Americans with Disability Act.

Q. Do you know whether you received any training on Section 504 of the Rehabilitation Act?

A. I don't remember the number.

Q. What's your understanding of -- before I ask you that. Would you -- would you agree with me that you in terms of the police department, it's your responsibility to assure that the department complies with federal law?

A. It's -- I think as the police department, it's my responsibility to make sure we comply with all laws.

Q. Right. But including federal law?

A. All laws, yes, ma'am.

Q. What do you understand the ADA to require, the Americans with Disabilities Act?

A. Well, I have that information and I have lawyers too to sit there. I don't sit and try to memorize the whole ADA or the code or any code, to be honest with you. But I do have access to that information, so if I need to get it, I can.
Q. I'm not really asking you to quote it. I'm just asking you to tell me generally what you understand the ADA requires or prohibits. Do you have any understanding of it as we sit here?
A. I have a basic understanding, I think.
Q. Okay.
A. But to be fair --
Q. Tell me what your basic understanding is.
A. You didn't let me finish.
Q. Okay.
A. To be fair, I think what I need to do is if something comes up, I have the -- I have the access to get the

proper information from the proper people and the proper paperwork.
Q. I understand that. But just as we're sitting here, tell me what your basic understanding is.
A. That -- again, I'll stick by my first statement and to give you a basic nutshell-type answer would be to make sure everyone is treated fairly whether they have a disability or not and they have a reasonable expectation to be accommodated.
Q. Can you give me any more specifics or is that generally --
A. That's generally.
Q. You've exhausted your general knowledge of it?
A. That's all I'm -- just can tell you in a nutshell. I think that's --
Q. Do you understand -- what is your general understanding, if you have one, on what a disability is under the

Americans with Disabilities Act?
A. Well, that's described in the paperwork that we have.
Q. Sure.
A. So I'd have to go look at the paperwork, get the exact knowledge of the exact wording of it.
Q. Yeah, I'm not really looking for the exact wording. I'm asking as we're sitting here right now, can you tell me at all what you understand a disability to be?
A. Well, I feel more comfortable when something comes to my attention for me to get the exact wording and that's what I do.
Q. Fair enough.
A. That's what I'd rather do --
Q. I'm entitled to ask you in this deposition whether you have a general understanding of what the definition of disability is and that's what I'm asking you. Without looking at

the paperwork or without talking to someone, do you have a general understanding of the definition of disability?
A. I think I do but I still say when something comes to my attention it's done by the book and that's what we use is the book.
Q. Well, tell me what your general understanding is of the definition of disability.
A. What I just told you. What I just told you earlier.
Q. That everybody is to be treated fairly and that they're to be reasonably accommodated, did I take that down correctly?
A. Yes, in a nutshell.
Q. So do you have other than that any understanding of what the definition of disability is?
A. I feel more comfortable using the paperwork --

Q. I understand, but --
A. I'm answering your question.
Q. We're sitting here --
A. I'm answering your question.
Q. We're sitting here in the deposition --
A. Yes, ma'am.
Q. -- do you have, can you tell me even generally what you understand the definition of disability to be under the Americans with Disability Act without looking at the papers?
A. Again, I feel more comfortable --
MS. MATTISON: Would you please direct him to answer the question?
MR. BOYLE: Chief, if you don't know, say you don't know.
A. I use the paperwork. I use the exact paperwork.
Q. (By Ms. Mattison) So you wouldn't know without looking at the

paperwork; is that right?
A. I'm just --
Q. Sir, I'm sorry. We're in a federal litigation. If you don't know what the definition is without looking at the paperwork, that's all you have to tell me. If you have some basic idea --
A. I gave you the basic idea.
Q. Excuse me.
A. No, you interrupted me.
Q. Excuse me. If you have a basic idea of what the definition of disability is, then tell me what you understand that definition to be. If you don't know, just say you don't know.
A. Okay. So you didn't like the way I answered the question. I told you the way I see it is I use the paperwork and that's what I do.
Q. The question is: Do you know -- I'm going to ask for assistance with guidance here because I don't want to have to go to the Court on a bunch of

things.
A. I just -- I don't know by heart.
Q. Now, at the time of Ms. Stokes -- when she was going through the -- her -- while she was on family medical leave or when she came back, at any point prior to her termination, did you ever consult with the books regarding the Americans with Disab -- the books on the Americans with Disability Act?
MR. BOYLE: Object to the form.
Q. Did you ever go look at the paperwork?
A. I think what was done there was --
Q. Question to you --
A. Let me finish, please.
Q. I'm asking not what was done. I'm asking what you did. Did you go and look at any paperwork regarding

the Americans with Disabilities Act as Ms. Stokes was going through the termination proceeding for attempting to commit suicide?
MR. BOYLE: I believe that's what he was answering.
A. I tried to answer you that and I think what I did was better than going to that paperwork myself. And I might have looked at the paperwork but I went to the attorneys, the city attorneys, went to -- made contact with city attorneys, made contact with the risk manager. And if I remember right, 'cause you had asked me earlier, made contact with the mayor's office.
Q. Well, did you look at the paperwork yourself, yes or no or you don't know?
A. I don't remember.
Q. The risk manager is not a lawyer; is that correct?
A. I'm not sure what he is.

He's a risk manager for the city. I'm not sure what his background is.
Q. Is that John --
MS. STOKES: Carnell.
Q. -- Carnell, John Carnell?
A. Yes, ma'am. Yes, ma'am.
Q. So you went to Mr. Carnell; is that correct, spoke with Mr. Carnell?
A. I think I spoke with city attorneys, risk manager, Mr. Carnell, and I think I spoke to someone in the mayor's office also.
Q. Did you ask them about the Americans with Disabilities Act?
A. From what I can remember, I gave them the information of what happened and possibly even passed the paperwork on at the time to get their opinions.
Q. Their opinions on what?
A. On the situation.
Q. What were you looking for?
A. Guidance especially from the

city attorney's office.
Q. Guidance on what?
A. On the information that we had concerning the incident or the intentional act.
Q. What was the question that you were asking them?
A. I don't remember the exact question. But the basic question was we have someone here and it was the first time since I'd been chief that we had someone to attempt to kill themselves. And I gave them that information to get back what the proper procedure were -- was for us to do.
Q. Do you know for certain whether you looked at the paperwork on the ADA? It sounds like you don't know for certain, is that fair to say?
MR. BOYLE: Object to the form.
A. I advised you, I think, just a few minutes ago I don't remember if I

looked at it personally.
Q. And the question that you asked John Carnell is basically what you just testified to, you gave Mr. Carnell some information that Ms. Stokes had attempted to kill herself and you wanted to know the correct procedure, is that roughly what you were asking, what to do?
A. Maybe in a nutshell. And again, that was just not to John Carnell. I think it was to the attorneys.
Q. Right. My understanding looking at the paperwork is that what you were concerned about is potential liability if you brought her back after she attempted to commit suicide. I think there was some testimony about that, is that fair to say?
A. From me?
Q. No, not from you.
A. Oh, okay. I was going to

say, no, I didn't testify to that.
Q. Right.
A. What I was looking at the public safety.
Q. Right. Public safety whether she was potential risk -- whether she was potentially dangerous; right?
A. Public safety concerns of -- for the citizens, for the officers, and then for the officer herself.
Q. So again, as I looked at the paperwork, and I understand you didn't testify, but you had some concerns that there might be a risk of injury or safety to the citizens or the other police officers if she came back after she attempted to commit suicide?
A. Yes.
Q. Kind of a nutshell; right?
A. Yes, ma'am.
Q. And ultimately as I read the paper, it was determined that since the

city couldn't rule out a potential risk that she might be a safety risk or injure citizens or other police officers, the decision was made not to bring her back?

A. Not -- I think she was there. She was dismissed.

Q. Right. She was not allowed to come back as a patrol officer. The decision was made that she should be dismissed because the city felt that it couldn't rule out the possibility of a risk that she might either injure citizens or injure other police officers?

A. I think what we dismissed her on was the two charges that were brought against her due to remain fit, rules and regulations of policies and procedures and duties of responsible employment, that's why she was terminated.

Q. I understand that. But in

looking at the testimony and especially Mr. Carnell's testimony, what -- what it looks like is that the reason that she -- ultimately the reason she was found -- I mean, kind of bottom line the rule, the reason that she was terminated was because there was -- there continued to be that safety risk or harm?

MR. BOYLE: Object to the form.

A. Again, I can answer it the best way I know how to. Due to the public safety concern for the citizens, for the officers, for fellow officers and then for the officer herself. And she was charged with under the rules and regulations that we all supposedly follow or have to follow and she violated that.

Q. Did the city have any evidence that she was not capable of returning to her job, that she actually, in fact, wasn't capable of returning to

her position, any evidence, any doctors' notes, anything of that nature?

MR. BOYLE: Object to the form.

Q. Are you aware of any evidence that the city had that she was not capable of coming back and fulfilling her -- the essential functions of her position?

A. The evidence that I had is --

MR. BOYLE: Object to the form. Sorry. Keep going.

A. The evidence I had was what she had done, so that's what we went by.

Q. Right.

A. What she -- the act she had committed.

Q. But once she was released to work by her physician, did the city have any evidence that at that point she was not capable of returning to her position and fulfilling her duties?

A. I don't recall.

Q. Now, how did you find out that Ms. Stokes attempted to commit suicide?

A. I think I was notified by then Major Murphy who was the division commander.

Q. What did he tell you?

A. That she attempted to kill herself or commit suicide by taking, I think he said, 150 Tylenol or Tylenol PMs or something to that effect.

Q. And did he say how he found out?

A. From -- from one of the shift supervisors.

Q. Did he recommend that disciplinary action be taken against Ms. Stokes?

A. Right -- right that second or you mean later?

Q. At any point.

A. Yes, ma'am.

Q. He recommended it?
A. Yes, ma'am.
Q. And he recommended it to you?
A. Yes -- well, yes, ma'am.
Q. Do you remember when he recommended it?
A. No, ma'am.
Q. Do you remember -- do you know why he recommended disciplinary action -- strike that.
Let me -- let me ask you this: The rules that she was investigated under, tell me what those rules were as you understood it.
A. The duty to remain fit and the other one was duties of responsible employment.
Q. Now, what does the -- tell me what it was about Ms. Stokes' behavior that violated the duty to remain fit -- strike that.
Tell me what the rule duty

to remain fit requires.
A. I'd have to get the book to give you the -- the exact wording.
Q. I'm not looking for the exact wording, just generally as you understand it.
A. To remain fit to work for the police department.
Q. What does that mean?
A. That you're able all the time basically to work for the police department even if we call you in.
Q. So generally as you understand it that an employee has an obligation to remain fit to work for the police department at all times?
A. In a nutshell, yes.
Q. And -- all right. And the duties of responsible employment I think is what the other one was. What's your understanding of what that requires just generally?
A. Well, that one, duty of

responsible employment, then it breaks down up under there like a subsection. And I think the one she was charged with was something like negative -- no officer or employee -- and this is not the exact wording.
Q. Yeah, just getting the feel.
A. Can or should do anything to reflect negatively, da, da, da, da on the police department. I can't tell you the whole wording.
Q. Reflect negatively on behalf of the public's perception?
A. No, I'm not sure on the wording but it says reflect negatively on the police department.
Q. I'm assuming that would mean the public might take a negative view of the actions, is that what you understand it to mean?
A. Public would be part of it but it can also be internally also.
Q. Now, do you know any other

officers or any other police persons who have ever been charged with violation of the duty to remain fit at any point?
A. I -- I don't recall one offhand. I would make an assumption that someone might have been but I don't recall it right offhand, no, ma'am.
Q. Do you have any -- do you have any papers, any internal notes or anything at all about Ms. Stokes' situation about notes about conversations you've had with people either during the time it happened or since the time these events happened?
A. Do I have any notes on Ms. Stokes, no.
Q. You don't keep notes on personnel issues?
A. It should be in their personnel file.
Q. Right. Do you maintain; for example, as a supervisor of some people -- I have a personnel file, I

don't, but our firm maintains a personnel file. But I also keep little notes to myself that will remind me when I talked to somebody about something --

A. If I wrote any notes on Ms. Stokes, I don't recall any. Most of them like disciplinary actions we keep in their file and this all -- should be all bundled together.

Q. So you think somebody, another police person -- when I say police person, I'm talking about anybody in the department -- may have been disciplined on the duty to remain fit but you're not sure who or when; is that right?

A. Well, I'm making an assumption that someone else has probably been charged with that over the hundred years the police department has been there but I don't know who it was -- if it happened, I don't know who it is.

Q. How would we find out whether anybody else was charged with that, and if so, who it was, who would we go to? If you -- if you were charged with the mission of going back and finding out whether anybody else had ever been investigated for that, who would know? I mean, I'm assuming maybe the computer but --

A. Yeah. Probably like you say the computer. And most of the subpoenas that would come in for those kind of records would go to records or either Internal Affairs.

Q. Do you know how material is kept on the computer?

A. What, what material?

Q. Well, disciplines, investigations?

A. Again, there should be a file on this in her personnel file with every paperwork we had.

Q. I'm talking for other

people.

A. In their personnel file, if, if, John Doe, Officer John Doe did whatever, it should be in his file.

Q. And the duties of responsible employment, do you know whether anybody else has ever been disciplined for that?

A. Yes, I know they have. Now, who, I don't know, but I do know that has happened.

Q. Anybody ever terminated for it?

A. There's a ton of subsections.

Q. Yeah, I know that. I know that. Do you know whether anybody's been terminated?

A. I'd have to go look at the records.

Q. You don't know off the top of your head?

A. No, ma'am.

Q. And you were notified by Major Murphy that she attempted to commit suicide. Do you remember how long after her attempt -- how long after she attempted to commit suicide you found out about her you were notified?

A. No, ma'am.

Q. And then Murphy recommended disciplinary action. Did you approve it, did you approve -- what steps did you -- first of all, did you approve of proceeding with the disciplinary action?

A. The -- with the proceeding of it, once he did the proper paperwork, yes, ma'am.

Q. So Murphy recommended that Ms. Stokes be disciplined and he told you that?

A. Be investigated. I'm sorry.

Q. And you agreed that she should be investigated?

A. Yes, ma'am.

Q. And before agreeing with Murphy, did you call anybody or get any counsel before beginning the investigation?
A. I'm not sure if I called anyone prior to that. I'm not sure.
Q. Who did the investigation?
A. Internal Affairs would do the investigation.
Q. Do you know who at Internal Affairs?
A. No, ma'am. There was only like three or four people -- two or three people over there. It might have been -- I don't -- please don't hold me to this -- it might have been Lieutenant Bolton. Back then he probably was maybe sergeant or I'm not sure. Or it was Captain Fleming over there, Bolton, and one or two others. I'm not sure who was there at the time.
Q. And do you remember -- help me get the procedure down. Do you

remember whether there was a recommendation after the investigation occurred -- well, strike that.
Let me ask you this: Were you interviewed or did you have any input into the investigation?
A. No, no, I'm not interviewed for the investigation.
Q. So you didn't -- you agreed she should be investigated but you didn't have a dog in the fight, so to speak, in terms of how the investigation went? You didn't -- you weren't pushing for one outcome or the other?
A. No. No.
Q. And what's the next thing you remember happening after the investigation occurred? You remember there being a recommendation?
A. Well, the normal procedure is after the internal investigation is over it's returned back to the division commander who I think was Major Murphy.

Major Murphy reviews the file or paperwork and he or whoever the division commander is makes a recommendation and that's forwarded I think to the officer and to --
Q. You?
A. It's forwarded to -- I think maybe a copy is forwarded to me, but I don't get involved in it because the officer has the due process right and he or she can go to the -- what we call trial board. And I'm not sure she went -- I think she did go to the trial board.
Q. Do you remember in this case what --
A. I think she went to the trial board, yes.
Q. Do you remember the outcome of the investigation or specifically in this case as we're sitting here, do you have a memory of it?
A. The outcome was she went to

the trial board and the trial board recommended that she be dismissed.
Q. Do you remember any conversations with anybody during the investigation phase or the recommendation or do you remember any conversations with anybody during the actual investigation slash trial board?
A. During the trial board, no, I'm not involved in the trial board.
Q. Before the trial board?
A. With Major Murphy, like I said, he's the one that notified me.
Q. Right.
A. And he's the one -- whether he talked to me after that once they had enough, quote, to show me they had probable cause that she attempted to commit the act that she did, all --
Q. I'm sorry. Go ahead.
A. -- then it's forwarded to Internal Affairs and Internal Affairs

will forward a copy to the division commander. And the division commander takes it from there and they set up I think the deputy chief or his or her secretary sets the trial board up and I think she went -- I'm almost sure she went before the trial board. The trial board heard whatever testimony was given and they recommended that she be dismissed.
Q. Now, whether she attempted to commit suicide was never disputed, was it? I mean, she -- it wasn't -- I mean, my question is: What was to investigate because Ms. Stokes readily admitted that she attempted to commit suicide? There was never any question as to whether she attempted to commit suicide as I understand it. So what was the investigation about?
A. About that case.
Q. Right. But what were we investigating since Ms. Stokes didn't

ever deny that she attempted to commit suicide?
A. Still if we bring someone up on charges, we still do an investigation on it and that's what they did.
Q. Why was there a -- my understanding is that -- well, I think it's in the record. Prior to bringing Ms. -- prior to making a final decision as to whether Ms. Stokes can return as a parole -- patrol officer, there was a fitness for duty evaluation that was completed at the request of risk management, is that how you remember it?
A. I remember, again, I think speaking with risk management and I think he did do a fitness for duty --
Q. Right.
A. -- process or assessment.
Q. Right. Because at that point the department was looking at whether they thought it might be -- that

it would be safe to bring her back is what I understand?
MR. BOYLE: Object to the form.
Q. Is that your understanding? I mean, that's the only reason for a fitness for duty assessment?
A. Yeah, but I don't have any control over the risk management. If they call for a fitness for duty, we send the employee.
Q. Did you -- I'm assuming that you approved Ms. Stokes' family medical leave?
MR. BOYLE: Object to the form.
A. Approved, I signed off on it.
Q. Sure. You approved it?
A. Yeah.
Q. You would have the authority to not approve it?
A. Just for your information,

since I've been chief of police, we have not -- I have not never approved any one family medical leave. The -- I'm sure the administrative assistants now go over the allotted time which I think is still 12 weeks I think, then they have a problem. But I usually sign off on it and they move it through the process.
Q. How many -- what would be your best estimate of how many family medical leaves you've approved since being chief?
A. I -- I would have no earthly idea; a lot.
Q. And I'm assuming some of those are because people are having kids and some of those are for other health conditions, fair to say?
A. I'm sure there's a number of things. I don't know what they all are. Whatever falls within the law, that's what we approve.
Q. Do you know what the law

says about an employee's right to return from family medical leave once they've been cleared by their doctor?
A. No.
Q. Did you seek any guidance or look at any papers on what the family medical leave requires once somebody is approved for the leave -- let me ask that better. I didn't ask it very well.
Once somebody is approved for family medical leave and they seek to return to work and are cleared by their doctor, did you ever either review any materials on family medical leave or seek any guidance on what that employee's right is to return to work under the Family Medical Leave Act?
A. Not that I can recall because I don't think we've turned anyone down.
Q. I'm talking about to return to work?
A. I don't recall.

Q. Well, in fact, Ms. Stokes was not returned to her position when her family medical leave ended; correct?
A. I'm not -- I thought she did come back to work.
Q. She came back in an administrative capacity as I understand it.
A. But she lost no pay or anything. I think the investigation was still going on.
Q. Right. But the Family Medical Leave Act entitles you to return to your job or an equivalent job in terms of duties. And the duties of an administrative job is different than the duties of a parole officer; right?
MR. BOYLE: Object to the form.
A. She was not a parole --
Q. I didn't mean to say parole. Patrol officer?

A. We have patrol officers working in the administrative division just like we do any division; seven, eight, nine divisions that we have.
MS. MATTISON: Well, do you have her job description?
MR. BOYLE: I do. And police officer and police chief (indicated).
MS. MATTISON: Is this -- this job description --
MR. BOYLE: Comes directly from the Montgomery City Personnel Board.
MS. MATTISON: 19 pages?
MR. BOYLE: Yes, ma'am.
MS. MATTISON: Maybe at a break I'll get copies of this so we can talk about it.
Now, to be clear while I was looking at this, the lawyer for the city just had a communication with you; is that right?

A. Yes, ma'am.
Q. My understanding is -- can -- don't tell me specifically what you talked about. But did you talk generally about how you're answering the questions or testimony or can you tell me generally the topic?
MR. BOYLE: I'll authorize him to say exactly what I told him. I'm not -- there's no privilege there.
A. It was the same thing I just answered your question on. When you were talking about the person moving from you said parole officer to administrative and what he was saying is the same thing I just said. She's an officer there and she's an officer there. It didn't make any difference and that's what he was saying.
MS. MATTISON: You know that in the Montgomery division that the -- that there are rules or guidelines in terms of communication with witnesses

during depositions in terms of the content of the testimony?

MR. BOYLE: That's why I authorized him to say exactly what I said. I just didn't want it coming from me on the record where it would look like I was testifying. We're not -- there's no privilege and he verbatim told you what I said to him.

MS. MATTISON: Why is there no privilege? Are you not his lawyer in his individual capacity?

MR. BOYLE: No, I'm saying with that one conversation. There is a privilege. I'm just saying with that specific conversation.

Q. (By Ms. Mattison) Looks like you have a lot less things to do since your job description is only -- I'm being facetious obviously -- only a mere four pages as compared to the -- compared to the 16 pages that are --

A. 19, I think.

Q. 19. Let's go off the record for just a second.

(A discussion was held off the record.)

Q. (By Ms. Mattison) So -- all right. So there was the -- then there was the hearing. And you called that trial hearing -- tell me what your language was for that.

A. Trial board.

Q. Trial board. And the trial board made the recommendation that one of those rules was sustained and one of them was not sustained, is that your understanding?

A. Yes, ma'am.

Q. And then it appears as if a determination was made to terminate her for violation of both of the rules, is that your understanding?

A. Well, the trial board made a

recommendation to terminate her on one of the charges. I made the recommendation to the mayor to on both the charges.

Q. Why did you make the recommendation on both of the charges --

A. Because I --

Q. Hang on. Let me ask it this way: On what basis, did you make the recommendation to terminate her on both of the charges?

A. The information that I had concerning the act that she had committed.

Q. And -- okay. And so you have the authority obviously to reject the trial board's determination?

A. Yes, ma'am.

Q. Did you talk to anybody before deciding to reject the trial board's determination?

A. I'm sure I did. I don't remember who it was specifically.

Q. And why did you -- what information did you have that made you -- that led you to reject the trial board's determination?

A. The information that was done in the investigation.

Q. And what information was that?

A. The information that she committed the act that she was charged with.

Q. And I'm assuming that there were still safety concerns that you testified about?

A. Yes, ma'am.

Q. Was it primarily that you were concerned about her potentially carrying a gun? In other words, if her position did not -- her position involves carrying a gun; right?

A. Yes, ma'am.

Q. And did she carry a gun while she was on administrative

duties?
A. To be honest with you, I don't know -- even know if I saw her.
Q. What did you understand her job was while on administrative duties?
A. To the best of my memory, what I thought they did once she returned from the hospital, whatever she went through, instead of putting her back in patrol, I think that's where she was, she went to the administrative desk.
Q. Was there a vacant position on the administrative desk or what or what job -- you don't know what job function she played or she undertook while on the administrative desk?
A. I don't know exactly what she did.
Q. But is it fair to say that your safety concerns primarily involved -- strike that.

I'm assuming you didn't think she was a safety concern while on administrative desk or you wouldn't have approved her coming back to the administrative desk?
MR. BOYLE: Object to the form.
Q. Is that fair to say? You want me to ask it again?
A. Yes, ma'am.
Q. Sure. I'm assuming that you assumed that she was not or you believed she was not a safety risk in working at the administrative desk or you never would have approved that?
A. I think you assume wrong. She -- I think in the act that she committed, she was, I'm assuming, was still under investigation and that's what we were waiting on was the investigation. When they're on the administrative desk, there's a much closer supervision of the person there

and they're not out on the streets so they're right there at headquarters behind a secured area.
Q. Right. So you thought there wasn't a real serious safety risk while she was on the administrative desk?
A. That's not what I said. I said we put her there pending the investigation.
Q. Do you have -- does the police department monitor people's health, employees' health?
A. Going to their personal doctor, is that what you?
Q. Uh-huh (affirmative response).
A. Not to my knowledge. I'm assuming unless something would come up that would indicate a problem with the employee that would affect their job performance.
Q. Well, do you take any steps to make sure that the police employees

remain physically or mentally fit? In other words, do you take any -- she was -- one of the rules that she was accused of violating was violating the duty to remain fit and that she had attempted suicide. And my question is: Do you -- does the police department take any steps to make sure that all employees are fit, like do you require that people get health screens or that they take their medication the way it's prescribed?
A. I've never known -- as a supervisor, I never made anybody take their medication.
Q. Are you, yourself, under a doctor's care for anything?
A. No. Well, just went to the doctor. I had, I think, bronchitis last week.
Q. Do you take any medication?
A. I was taking -- I don't know

all the medication.
Q. Let's put this under protective order. But do you take any medication regularly?
A. Last -- I think last week I went to the doctor and he gave me an inhaler for bronchitis. He gave me some other medication. I don't know what they were and a shot. And then he said -- I think he gave me some pills. He said your blood pressure's up, take this for right now.
Q. What blood pressure medication?
A. I don't know. I don't know. Like I said, this just happened last week. When I had what I thought was the flu but he said it was bronchitis.
Q. Who was the doctor that you saw?
A. The doctor I saw was Dr. Mendez.
Q. Would you spell it for me?

A. M-E-N-D-E-Z, I think it is.
Q. Is he in Montgomery?
A. No. He's in Elmore County, I think.
Q. Is he your typical physician?
A. No. No. I just went to him because I -- I felt good -- I felt bad and I called him. And he works also in the city system and I called him and he said, yeah, come up here. I can see you.
Q. Do you have a regular physician?
A. Not really, no. I've never been sick.
Q. What other physicians have you seen?
A. The dentist yesterday.
Q. Besides the dentist?
A. That -- that's it.
Q. You've only seen Dr. Mendez

say in the last five years?
A. I think so. Yeah, I think so.
Q. And so your -- did you get the blood pressure medicine?
A. Yeah. He just gave me one little script for it. He said let's see what this is 'cause I had the virus or whatever it was and it was a combination of all of that. He gave me prescriptions for all of it.
Q. And are you on any -- tell me all the medication that you're taking -- that you're taking now.
A. The only thing I'm taking right now is that one pill.
Q. Does the city keep track of any of the medications that the other -- that other employees are on?
A. From their personal physician?
Q. Yeah.
A. Not to my knowledge.

Q. Or from any physician?
A. Not unless something happened to them on duty. I -- I don't know of anyone that they look at.
Q. Was Ms. Stokes on duty when she attempted to commit suicide?
A. I -- I don't know. I don't think so. I'm not sure.
Q. So does the city require employees go through regular health screenings to make sure; for example, that they might not have a heart attack or that they don't have any drug or alcohol problems?
A. No.
Q. Or other mental health problems?
A. Not to my knowledge. I think they give some options out there but it's up as far as -- I can't say for the city. For the city police department, it's made known to the employees it's their duty to remain

fit.
Q. Right. So the district of the -- but the police department doesn't follow up on that in terms of assuring that all employees remain fit?
A. I've never known them to go to anyone's personal physician unless something came up that they did something illegal or we were doing an investigation internally.
Q. Now, Ms. Stokes didn't do anything illegal by attempting to commit suicide; right? She wasn't charged with anything, was she?
A. She was not charged criminally with anything, no.
Q. And you acknowledge that her medical records are confidential so any -- well, any evidence from the hospital or any of her doctor records would be confidential, they wouldn't be available -- they'd have limited -- the department would have limited access to

them and the public certainly wouldn't have access to them, are you aware of that?
MR. BOYLE: Object to the form.
Q. You want me to ask it again?
A. Yeah.
Q. Ms. Stokes' medical record including any mental health treatment, you understand that those records are private, that they're confidential?
MR. BOYLE: Object to the form.
Q. Or do you know?
A. Her private records?
Q. Yes.
A. I would assume so. That's an assumption. But what I said earlier, you left that part out. I said we were also conducting an internal investigation. You asked about the criminal. And I said, no, I don't think

we did any kind of criminal investigation but we did do an internal investigation.
Q. Right. And you've had employees who have sought treatment for alcohol, alcohol and/or drug abuse in the police department, have you not?
MR. BOYLE: Object to the form.
A. Yes, ma'am, to the best of my knowledge, I think so. I don't know about drugs now but alcohol.
Q. And more than one employee; correct?
A. Again, I don't recall.
Q. Who -- who is the person that you're thinking of?
A. No. No. I didn't say a person. I said I think there has been, but I don't remember who they are.
Q. And you don't dispute that Ms. Stokes immediately got treatment for her depression which caused her to

attempt to commit suicide?
MR. BOYLE: Object to the form.
Q. Do you or did you check?
A. I think she was taken to the hospital and then taken for some kind of treatment, but I don't know all the details.
Q. Right. Did you -- did you investigate or ask whether Ms. Stokes was taken for continuing treatment as a result of her mental health condition?
A. I don't remember if I asked that or not.
Q. Do you know as we're sitting here right now whether she got continued treatment?
A. What I can remember is I think she went to the hospital and then she got treatment. Now, how long that continued, I don't know.
Q. So is it your testimony that what Ms. Stokes did that caused her to

not remain fit, what exactly was it that she did, was it the suicide attempt, was it letting her get -- what exactly was it that she did?
MR. BOYLE: Object to the form.
A. I'm sorry. Say it one more time.
Q. Yeah. What exactly was it that -- you testified that you overruled the trial board's determination that she had not violated that rule and you recommended that she -- you said you thought she had violated that rule. So I'm -- what exactly was it that she did that made you conclude that she had violated the rule, the duty to remain fit?
A. Well, both of them.
Q. Right. Let's just stick with that one. Is it the same thing that she did for both those?
A. I think she violated both of

them and the reason she violated both of them for the public safety, we -- no way that I could see her being put back as an officer. And --
Q. Okay. All right.

(Plaintiff's Exhibit No. 2 was marked for identification and attached hereto.)

Q. I'm going to show you Plaintiff's Exhibit 2. This is duties of responsible employment. Ask if you can tell me which category you think she violated.
A. Engaging in any activity which may reflect negatively on the integrity, competency, or ability of the individual to perform his duty or may reflect negatively on the reputation of -- of the department.
Q. Now, of course you acknowledge that the public would have

no way of knowing that she attempted to commit suicide or that she had received psychiatric treatment because --
MR. BOYLE: Object to the form.
Q. Excuse me. -- because her medical information was confidential at least under the Americans with Disabilities Act; correct?
A. I don't know who was there when that happened or what, so the public might have known.
Q. Did you undertake any steps to investigate who was there when she attempted to commit suicide?
A. I did not personally, no.
Q. Did you direct anybody to take any -- to do any investigation to determine whether the public might have been aware of her activity?
A. The internal investigation was --
Q. Public?

A. The internal investigation is what was directed.
Q. So you didn't take any specific steps to -- to ask that a particular topic be investigated?
A. No. It was an internal investigation that would encompass everything that they would look into.
Q. So you didn't give them any direction it sounds like in terms of the investigation?
A. No, I didn't. I didn't tell them.
Q. My understanding is that the suicide was not reported on the police blotter or daily as I think it's sometimes called; is that correct?
A. I don't know.
Q. Don't know. You don't have -- when you approved Ms. Stokes' family medical leave you -- strike that.
Now, would you agree with me -- I've looked at Ms. Stokes'

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evaluations, et cetera -- that she was a pretty good employee?
A. I -- I think I've talked to her and seen her just a few times.
Q. Let me ask it this way: You don't have any evidence that Ms. -- that Ms. Stokes was not a good employee?
A. To the best of my knowledge, I don't have any evidence either way.
Q. You didn't undertake any examination of her file or --
A. Yeah, but I'm saying I don't remember her file.
Q. Well, is there anything that stands out to you right now that indicates she was not a good employee or not qualified for her job?
A. I told you why I thought she was not qualified for her job because of the charges that we brought against her.
Q. Before the suicide attempt, you don't have any evidence that Ms.

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Stokes was not qualified for her position?
A. I'm sorry. I don't remember anything about her file per se.
Q. Don't remember any complaints about her?
A. Not to my knowledge. I have 7-, 8-, 900 people.
Q. Did you look at her file prior to testifying today?
A. Briefly, yes, ma'am.
Q. Never seen --
A. Not her entire file, just basically the investigation mostly.
Q. How many police officers were there roughly in '06? Meaning how many patrol officers, just roughly. I'm just trying to get a ball park figure. 500, 75?
A. We had 510 police officer sworn slots. It might have been 500 then because we raised it, but I don't know the exact date.

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(Plaintiff's Exhibit No. 3 was marked for identification and attached hereto.)

Q. This is an evaluation of Ms. Stokes in '05 signed by Major Murphy. Basically, he's recommended -- Ms. Stokes received her merit increase, I think, every year. Any reason to suspect that the information on this record is not accurate?
A. No, ma'am. I've never -- I don't remember seeing this.

(Plaintiff's Exhibit No. 4 was marked for identification and attached hereto.)

Q. Same question with regard to No. 4. This is from Ms. Stokes' personnel file. Any evidence that this information is not accurate?

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A. No, ma'am.
Q. You remember seeing this before?
A. I don't remember it, but I see my initial on it.
Q. Now, in the chain of command for officers, corporal is -- tell me quickly what's the first position for patrol officers, the -- the title.
A. A trainee is in the academy, then a police officer is the rank after you graduate the academy --
Q. Then what?
A. Your next promotion is corporal or either detective.

(Plaintiff's Exhibit No. 5 was marked for identification and attached hereto.)

Q. I'll show you Plaintiff's Exhibit 5. It's also from her file. Was Ms. Stokes going then from police

officer to corporal?
A. That's what it appears to be, yes.

(Plaintiff's Exhibit No. 6 was marked for identification and attached hereto.)

Q. Show you Plaintiff's Exhibit 6 and ask if you've ever seen this?
A. Yes, ma'am.
Q. So what appears this is saying is that at least and is this -- strike that.
Does -- is this -- do you remember whether this memo came after you talked to Major Murphy or whether you first learned about the suicide attempt by this e-mail or by this memo?
A. To the best of my memory, I think it was told to me first and then the memo came asking for the investigation.

Q. So it looks like Major Murphy, and I'm reading from the second paragraph, felt that, the last line of the second paragraph, that Corporal Stokes' mental and emotional fitness for duty was uncertain at the time?
A. That's what he wrote, yes.
Q. When did the actual investigation begin?
A. The date, it would have to be -- I'm not exactly sure. I'd have to look back in the file to find the date.
Q. So did you initiate the family medical leave approval? It looks like you did, that -- you've already testified that you approved the family medical leave for Ms. Stokes and it looks like you may have initiated the family medical leave, is that --
A. No, no, ma'am, I don't initiate the family medical leave. That's done usually by the employee and the supervisor they work for.

Q. But you remember approving it for Ms. Stokes?
A. I don't remember her specifically but I --
Q. If I told you your name was on it -- let me see if I can find it.
A. No, I have no problem saying I approved it. Like I told you earlier, I don't think I've not approved any that met the qualifications.

(Plaintiff's Exhibit No. 7 was marked for identification and attached hereto.)

Q. So it looks like based on Plaintiff's 7 -- is your signature on this document?
A. The third line.
Q. That's what I thought. Your signature is almost as bad as mine, not quite. But the period of family medical leave was to be December 19th which I'll

represent is the date Ms. Stokes attempted to commit suicide until January 12th when she was released by her physician?
A. Yeah, that's what the form says. Yes, ma'am.
Q. No reason to think that this information is inaccurate on Plaintiff's Exhibit 7?
A. Correct. Correct.

(Plaintiff's Exhibit No. 8 was marked for identification and attached hereto.)

Q. Show you Plaintiff's Exhibit 8. I assume you've seen this document before?
A. I signed it. Again, I sign literally thousands.
Q. And so Major Murphy was recommending that Ms. Stokes be placed on administrative leave with pay from

January 13th, which is when her Family Medical Leave Act terminated, until January 24th. And I'm assuming what that means is that she wasn't working, Ms. Stokes wasn't working during that nine-day period but that she was receiving pay, is that fair to say?
A. Yes, ma'am.
Q. And that she -- beginning Wednesday, January 25th, she was on administrative duty which is where she was in the secure area at the desk essentially; is that correct?
A. To the best of my memory, yes, ma'am.
Q. And you approved this it looks like?
A. Yes, ma'am.
Q. Did you know that Ms. Stokes was working -- got a job after working with Montgomery with another police department?
A. I think that's the first

time I've seen Ms. Stokes since, since she --
MR. BOYLE: Objection to form. I didn't understand the question. Maybe it's just me but --
Q. So -- so you didn't realize -- sounds like you didn't know where she had worked after that after she had left the Montgomery Police Department?
A. I didn't. Only time I think I overheard, I think, Michael Boyle and it was yesterday whenever we met. And it might not have been him but I'm almost sure that's who it was unless it was Murphy that said she was working for another agency somewhere. But I didn't know where.
Q. Do you have any reason to think that after leaving Montgomery that she wasn't capable of performing as a patrol officer after she left the Montgomery city?

A. To be honest with you, I didn't think -- my dealings is with the Montgomery Police Department. I have no jurisdiction at other departments.

(Plaintiff's Exhibit No. 9 was marked for identification and attached hereto.)

Q. Let me ask it this way: Do you have any evidence that she wouldn't be qualified to work as a patrol officer for another department? I'm assuming you interact with the other sheriffs' departments or the other -- with various sheriffs' departments?
MR. BOYLE: Object to the form.
A. Do I talk to other sheriffs --
Q. Yeah.
A. -- and police chiefs and directors of public safety, yes.

Q. Sometime you do work --
A. In conjunction with.
Q. Sure.
A. Yes.
Q. Show you nine. Have you seen this document?
A. I don't see my initial on this one.
Q. Now, help me understand this. This says on January 27th that Major Murphy -- first of all, what is the evaluation period? It says the first paragraph, During this evaluation period, Corporal Stokes' job performance was up to standard. Corporal Stokes performed her duties with little or no supervision. She has filled in as a training officer on numerous occasions and assisted in supervisory roles when needed. She was suspended for three days during this evaluation period for wrecking a city patrol vehicle. Corporal Stokes does an outstanding job

and has not received any recent disciplinary. I recommend she receive her merit raise. And the date of it is dated -- there's two dates. One is March 3, 2006 and the other is January 27, 2006. Have you ever seen this? I may have just asked you that.
A. If I have, I didn't -- I don't see my initials on it.
Q. I did ask you that. Do you know what the purpose of this record is?
A. For her merit raise.
Q. And so obviously Ms. Stokes received -- if I'm calling everybody else by their titles, I should call her by her title. Corporal Stokes was approved for the merit raise, do you know --
A. From this form, yes. From this form. I -- I don't know.
Q. Do you know why there it's signed on January 27th and the date is

March the 3rd?
A. That, I don't know. I'm sure that's probably -- the March 3rd is probably her merit date, the official. When they went back, and a lot of officers don't know, but when they went back in and did a pay scale before I came back, I think a number of the officers' merit dates were changed to March. I'm assuming that's what that is. That's an assumption. I don't know.

(Plaintiff's Exhibit No. 10 was marked for identification and attached hereto.)

Q. Show you Plaintiff's Exhibit 10 and ask if you've ever seen this document?
A. Yeah. I don't remember the document, but yes, I signed, yes, ma'am.
Q. And so -- well, I'm a little

unclear because is what this document is saying is that she was placed on administrative leave with pay pending the psychological evaluation. And so you're aware she got the psychological evaluation which is also the fitness to work?
A. I remember that she did get some evaluation, yes, ma'am.
Q. So you obviously approved the psychological evaluation?
A. No. This is approval, just --
MR. BOYLE: Object to the form. Go ahead.
A. This is just approving the administrative leave time. That's what this is.
Q. I'm assuming that you would have had the authority to say that we don't need a psychological evaluation on Ms. Stokes. You could have, you may not have chosen to do it but I'm assuming

you could have --
A. I'm not sure if I have that authority. I think to the best of my knowledge most of that came from the risk manager, I think.
Q. It sounds to me like you may have relied at least in part on the risk manager's assessment of Ms. Stokes' abilities when you were making your various determinations, is that fair to say? I assume you would rely on the risk manager.
A. I received the advice from the attorneys and risk management and I think the mayor's office.
Q. So you relied in part it sounds like on the risk manager's assessment of Corporal Stokes' ability to work?
A. I mean, I received information from the risk manager. To the best of my knowledge, yes.

(Plaintiff's Exhibit No. 11 was marked for identification and attached hereto.)

Q. Plaintiff's Exhibit 11. Have you seen that document before?
A. I don't see my initial on this one, but I think I have at least parts of this, at least.
Q. And would you agree that this investigation essentially is investigating what the department's concerns were regarding Ms. Corporal Stokes returning to work?
MR. BOYLE: Object to the form.
A. What the investigation was was to investigate what happened, period.
Q. Right. But would you agree that this investigation constitutes an accurate representation of what the investigation was attempting to

ascertain, the information or the conclusion that the investigation was attempting to ascertain?
MR. BOYLE: Object to the form.
A. I'm not sure if I understand you. But what the investigation does is just give the facts to get them back to the division commander and that's what -- I'm not sure -- it looks like it was thicker than this.
Q. What's thicker than that is the trial transcript.
A. Trial board.
Q. But this is talking about the investigation and the investigation talks about; for example, on Page 3, it asks Corporal Stokes whether she was -- believed she was stable enough to return to work. Asks her further down on the page whether Ms. Stokes think she's physically and mentally fit to return to work, you see those questions?

A. Yes, ma'am.
Q. So that was in part what the investigation -- that's what the investigation was investigating at least part of it?
MR. BOYLE: Object to the form.
A. The investigation was investigating the act or possible acts that she committed; that's what they were looking for.
Q. But they were actually asking more than just the act. I mean, there's questions in here that didn't ask her -- let me ask it this way: Take your time to look through this investigation. Do you see any -- any questions that were asked of Ms. Stokes that went beyond what you understand the proper investigation to be?
A. You want me to read the whole thing?
Q. Do whatever you need to do

to be able to answer the question.
A. What's your question? I'm sorry.
Q. The question is: Do you see any aspect of the investigation that was not proper, any questions that were asked of Ms. Stokes that were not properly part of the investigation.
In other words, let me give you an example. If Ms. -- if Corporal Stokes were asked, I'm going to give you an absurd example just to make a point, whether she had sexual relations with somebody, nothing to do with this case, that would be an improper -- I think we all could agree that doesn't connect to anything in the investigation, that would be an intrusion into her privacy. It wouldn't be proper just like I wouldn't sit here in an investigation of this case or deposition and ask you ridiculous questions that are personal that have nothing to do with the

litigation. So that's an absurd example but that's what I'm trying to get. Do you see any questions that were asked of Ms. Stokes -- of Corporal Stokes that were inappropriate or went beyond what the investigation was supposed to be investigating.

A. I'll have to sit here and read all of it. (Reviewed document.) And your question was, did I --

Q. Does this appear to be a proper questioning of this witness in terms of the investigation?

A. The general questioning, yes.

(Plaintiff's Exhibit No. 12 was marked for identification and attached hereto.)

Q. Show you Plaintiff's Exhibit 12. Ask you if you've seen this document?

A. Again, I don't see my initials on it, but --

Q. No reason to think it didn't actually come to you, do you?

A. I would assume Murphy was her division commander, yeah.

Q. It says, Due to these circumstances, and -- well, the memo says, Corporal Stokes is on administrative duties assigned third shift patrol on loan to the administrative division. Corporal Stokes is currently being evaluated by a physician and licensed counselor in order to determine her fitness for duty as a Montgomery Police Officer. Due to these circumstances, Corporal Stokes is ineligible to transfer to another division at the present moment. Due to what circumstances, that she's undergoing the fitness for duty? That's what it seems to say.

A. You would have to ask Major

Murphy.

Q. I didn't see in the policies that I received from the department, I didn't see any rules that dictate when an employee is eligible or ineligible for a transfer. Are there any that you're aware of?

A. You say you looked in the rules and regs --

Q. And I didn't see any that; for example, I would have expected to see?

A. Well, I know there are rules. Whether it's a practice or a policy, just as you would say an example would be you won't leave patrol unless it's in dire need of the department and the chief can approve that, you won't leave -- you have to be a patrol officer before you can go to any other division. Now, whether that's written or not but that's a fact.

(Plaintiff's Exhibit No. 13 was marked for identification and attached hereto.)

Q. Plaintiff's Exhibit 13. Ask you if you've seen that document before? I'm assuming that's your signature.

A. It is my signature, yes.

Q. Now, it says -- it seems to indicate that Ms. Corporal Stokes was on leave without pay just for 5.5 hours. Do you --

A. What?

Q. On January 10th, Corporal Stokes still would have been on family medical leave. Do you understand why she was placed on leave without pay?

A. What it says, Employee leave without pay due to personal illness and had exhausted all her leave time. So if she didn't have the time to take off -- we bill X amount of hours each pay period. And if she had run out of time,

that's why that would be in there.
Q. Why wasn't she charged after January 10th for --
A. I don't know.
Q. -- leave without pay?
A. You'd have to pull the paperwork on that.

(Plaintiff's Exhibit No. 14 was marked for identification and attached hereto.)

Q. Show you Plaintiff's Exhibit 14. This indicates that on January 20th Sergeant Bolton was appointed to conduct the investigation of the duty to remain fit. Do you see that, not two rules, just one rule?
A. Yes. Yes, ma'am.
Q. My -- do you have any evidence that Sergeant Bolton was ever charged with investigating whether Corporal Stokes violated the duties of

responsible employment? Because this document only indicates that he was charged to investigate the duty to remain fit rule.
A. I'm not sure of your question.
Q. I don't see any documentation that Sergeant Bolton was ever appointed to conduct an investigation of the violation of the duties of responsible employment, only that he was asked to do an investigation of the possible violation of the duty to remain fit. And so my question to you is: Do you have any documentation or are you aware of any documentation that Sergeant Bolton was ever ordered or appointed to conduct an investigation of the second rule, the duty of responsible employment?
A. And I'm not sure where you put it. The initial letter was done by Major Murphy. That's what Sergeant

Bolton would go by.
Q. Yes.
A. Okay. And then he just does a report. It's up to Major Murphy or the division commander at the end of the investigation to come up with the -- all the proper charges. And I would make an assumption that's where the two charges came from after Major Murphy read the internal investigation.
Q. Well, the initial appointment or the initial request for investigation, and that's Plaintiff's Exhibit 6, was that Corporal Stokes be investigated regarding Section 1.410, duty to remain fit?
A. Right. That's what I said.
Q. And that's what Sergeant Bolton says he investigated, the duty to remain fit.
A. That's what I said.
Q. Okay.
A. And the other part of what I

said was once Sergeant Bolton or Internal Affairs finishes the investigation, that's when the division commander who happened to have been Murphy this time comes up with the final charges if charges are warranted, if he feels they're warranted, and he came up with the two charges.
Q. Do you have any documentation that Murphy came up with the two charges?
A. It should be in the file. I don't have it with me but it should be in the file.
Q. And my question is: Corporal Stokes was given notice that the initial investigation was on duty to remain fit, you agree with me on that? Let me withdraw and back up.
Would you agree with me that based on the departmental rules employees have the right to know what rule violation they are being charged

with?
A. No, I'm not in total agreement with that. No, ma'am.
Q. So it's your understanding that an investigation -- that employees are not entitled to know what rule -- what rule violations they are being investigated for?
A. At that stage, there was just like preliminary information. That's what Major Murphy went by. That's enough to get the investigation started. Once the investigation is complete, that's where you -- that division commander can read the information or review the information and if he or she feels that that charge or additional charges or no charges are warranted, that's when it happens. Then the employee is given the information on what he or she is going to be charged with.
Q. And your testimony is that's

in the rules, in the personnel rules?
MR. BOYLE: Object to the form.
Q. Is it your testimony that what you just said is in the personnel rules?
A. It's in the --
Q. Written down. Is the procedure for investigating allegations of misconduct that you just --
A. I'd have to look in the rules.
Q. -- testified to is written down?
A. I think it is in the rules and regulation book. But it is internal.
Q. In writing?
A. I'd have to go look and see.
MS. MATTISON: Bumblebee. I don't think in looking at this that I have the incident report that is referenced in Plaintiff's Exhibit 14.

If you can --
MR. BOYLE: Filed with the EEOC. Here's a copy right here.
MS. MATTISON: Maybe I don't know what the incident report is.
MR. BOYLE: Looks like this (indicated). Ms. Stokes was looking at it a minute ago.
MS. MATTISON: Yes, I do have that. I do have that.
Now, would you agree that Sergeant Bolton doesn't make a recommendation or doesn't come to a conclusion, if you will, on Plaintiff's 14, it just states what happened during the investigation including what Corporal Stokes stated but he doesn't say, yes, she violated a rule or, no, she didn't?
A. That's not Internal Affairs' job. To answer your question, he doesn't come up with that. And all he did here was a synopsis.

Q. Who is Kimberly O. Fehl, is she a lawyer? Looks like she's a staff lawyer with the city.
A. She's a city attorney.

(Plaintiff's Exhibit No. 15 was marked for identification and attached hereto.)

Q. Did you ever speak with Ms. O. Fehl? Am I pronouncing it -- oh, it's just Fehl. Ms. Fehl regarding Ms. Stokes?
A. Ms. Fehl?
Q. Fehl, is that how you pronounce it?
A. Yeah. I spoke to the attorney's office. I'm not sure which one I spoke with. But I'm -- it probably was Ms. Fehl to get the approval to start the investigation.
Q. Well, the investigation had already begun, had it not? We just saw

the investigation, parts of the investigation, hadn't been completed but --
A. No. These are requests.
Q. Right. But on February 1st --
A. This was January.
Q. It says February 7th.
A. No, that's typed. In here it says verbal request was January.
Q. Oh, all right. So the investigation was done at the request of Kimberly Fehl, F-E-H-L is how you spell that; is that correct?
A. Yes, ma'am. She gave the approval, yes.
Q. Bumblebee. Did you -- yeah, you received -- it was sent to you.

(Plaintiff's Exhibit No. 16 was marked for identification and attached hereto.)

Q. Show you Plaintiff's Exhibit 16. I assume you've seen this.
A. Yes, ma'am.
Q. Now, do you have any evidence that Corporal Stokes was ever told prior to the hearing that she was being charged not only with the duty to remain fit but duties of responsible employment?
A. I'm not sure. I would -- you would have to ask Major Murphy.
Q. Actually, if I can, I don't normally do this, but it looks to me like this page was inadvertently -- last page was inadvertently added; a letter to Corporal Stokes, so I'm taking it off the exhibit.
MR. BOYLE: Second document.
Q. Looks like it shouldn't be on there in the first place.

(Plaintiff's Exhibit No. 17 was marked for identification and

attached hereto.)

Q. Show you Plaintiff's Exhibit 17. Ask if you've ever received this document?
A. It's just part of the case file. All it is is an initial cover sheet.
Q. Okay. This is dated February 14th, and at that point, the only complaint at least appearing on this document is the violation of the duty to remain fit?
A. No. It said it was turned in February the 14th. All this is is the initial cover sheet so the investigator will have something -- just turned in on that date.
Q. When you say the investigator, you don't mean?
A. Sergeant Bolton.
Q. Sergeant Bolton --
A. Or whoever you said

investigated it.
Q. Yeah, it was Lieutenant Bolton, I think -- no, Sergeant Bolton. His investigation was done February 1st.
A. I'm just trying to help you out here. All this is is telling them when the case was turned in.
Q. When you say turned in, you mean the investigation completed?
A. Where it was turned over -- he might have completed it but he still had to do the paperwork. And he, quote, as they would say, turn it in and then it starts its track.
Q. In any event, at this point we're still looking at one rule violation at least according to this paper, that being the duty to remain fit?
A. The only thing that he does is take it off the initial paperwork.
Q. I understand.
A. That's all he's doing. He

just puts down what's on the initial paperwork.
Q. Well, I just wonder how one prepares for a hearing if they're not told all the rules that they're alleged to have violated?
MR. BOYLE: Object to the form.
Q. Do you have any evidence that Ms. -- that Corporal Stokes was told all of the rules that she was alleged to have violated prior to the trial -- trial board?
A. I think I understood what you said. My answer is still the same. That's a question you would have to get with Colonel -- Major Murphy, then Major Murphy.
Q. All right.

(Plaintiff's Exhibit No. 18 was marked for identification and attached hereto.)

Q. Show you Plaintiff's Exhibit 18 and ask whether this appears to be an accurate copy of the minutes of the transcription of the trial -- this is the trial board?
A. It appears to be, yes.
Q. The trial board hearing?
A. Yes, ma'am.
Q. Major Mitchell, who is he? I mean, what is his --
A. It's a she.
Q. It's a she?
A. Yes.
Q. Sexist. What is her -- how does she relate -- is she a personnel person, does she relate specifically to the police department or what's her job?
A. Her job right now is a division commander of the detective division.
Q. At the time, what was her

job?
A. I'm not sure where she worked.
Q. Was she in the police department?
A. Yes, ma'am. Yes, ma'am. She was a major in the police department. I just don't know which division.
Q. Any reason to think this transcript is not accurate?
A. Not to my knowledge.
Q. Did you ever read it before? I mean, have you ever read it?
A. I know I read some or either all of this, yes, ma'am. I'm not sure if I've read it verbatim, but I have reviewed that file.
Q. Would you have -- would you have -- do you know for certain whether you would have read it before recommending that Corporal Stokes be terminated?

A. I would have all this information available to me along with all the other information, yes, ma'am.
Q. Right. But do you know if you would have actually read it?
A. I don't know if I read this verbatim. But again, I did review this file, yes, ma'am.

(Plaintiff's Exhibit No. 19 was marked for identification and attached hereto.)

Q. Show you Plaintiff's 19 and ask if you've seen that document?
A. Yes, ma'am.
MR. BOYLE: Do you have a copy?
Q. Oh, I'm sorry. (Indicated.) And this is where the trial review board finds that the first charge, duties of responsible employment, were sustained but the duty to remain fit was not

sustained; correct?
A. Yes, ma'am.
Q. Who all -- the board members, are there just two of them?
A. Three. Major Mitchell is the chair and the other two are members -- also members.
Q. Who is lieutenant -- what is the purpose for Lieutenant Fleming and lieutenant -- we already know who Lieutenant Bolton is. But are any of these people employee reps or?
A. You want me to answer or --
Q. Well, let me ask you this: Is Fleming your assistant?
A. He was.
Q. He was your assistant?
A. And he was also in charge of Internal Affairs.
Q. Did he make any recommendations to you regarding Corporal Stokes' termination or any of her discipline?

A. He -- he gave me some -- some of the facts. I don't know if he ever made any recommendations.
Q. Did Major Murphy ever get in a fistfight with anyone that you're aware of?
MR. BOYLE: Object to the form.
Q. At work?
A. Not to my knowledge.
Q. Or while on duty -- off duty, off duty?
A. A fistfight?
Q. Yeah.
A. Not to my knowledge, no.
Q. Well, if Major Murphy would have gotten into a fistfight off duty --
MR. BOYLE: Object to the form.
Q. -- would that have warranted an investigation?
A. Since I've been chief?
Q. I'm just saying

hypothetically. If you have a police officer that gets in a fistfight off duty, are they investigated?
A. If he or she's out protecting themself or even though he or she is off duty and acts as a police officer to assist someone else or protect themself or someone else, probably not unless there was something that would rise to the attention of the police department.
Q. Well, let's say the police department becomes aware that one of its officers gets into a fistfight off duty and let's say another person gets a black eye, the other person they're fighting with gets a black eye, would that -- would that be investigated?
A. It's a possibility. I need more of the circumstances than that. 'Cause a person has a right even though he's a police officer or she's a police officer to defend themselves.

Q. How would you know before the investigation? My question to you --
A. If another officer comes on the scene and they're talking just like we would any other person at a store or wherever it might happen to be at, a ball game or whatever, we don't investigate every person. We sit there and listen on a misdemeanor and figure it out. But I don't know of him getting into a fistfight with anyone.
Q. Put aside Major Murphy. What I'm trying to figure out is what gets investigated and what doesn't. If there's allegations that a police officer is drunk and rowdy off -- off while on their own time, would that be investigated, public intoxication?
A. Yes. I think it would, yes.
Q. Has that ever happened?
A. I'm sure it has.

Q. Well, can you think of anybody else whoever has been investigated for anything in the police department since you've been there? I'm assuming yes.
A. Yeah, I'm sure --
Q. Tell me the people that you can remember who have been investigated.
A. Again, specific charges I don't know because they come every day.
Q. Investigations happen every day?
A. Yes.
Q. Then that should be easy to remember some of the recent ones. Who do you remember who's been investigated?
A. I honestly don't -- I'm trying to thinking of names. But I can remember people missing court, they get investigated.
Q. Who missed court?

A. Again, I don't know their names.
Q. Chief, are you telling me as we're sitting here right now that you can't give me a single name of -- although you get investigations every, day that you can't tell me anybody who's ever been investigated?
A. Oh, yeah, I can tell you somebody's --
Q. Okay. Just give me the names that you can remember.
A. (Indicated.) Ms. Stokes.
Q. Corporal Stokes; right?
A. She's not a corporal with us. Ms. Stokes was investigated.
Q. She still has a title.
A. I don't know what it is.
Q. Her title is deputy.
A. Deputy Stokes.
Q. Let's give her the same respect --
A. But I didn't know. That's

what I just told you, okay. I can't give her respect -- I call her Ms., that's all I knew. You just want names of the probably hundreds?
Q. Yeah.
A. I think -- I think Crossway. I think -- I mean, just tons of officers.
Q. Then it shouldn't be hard to give me some names so give me some names.
A. But I'm trying to remember. I'm trying to put them together. I don't sit and think he's being investigated unless it's something that's happening right this second.
Q. Just tell me the names of people you can remember that have been investigated.
A. I can't tell you all of them.
Q. I'm not asking you to tell me all of them. I'm asking for some

assistance from counsel because this is now the fourth thing we're going to have to go to the Judge.
MR. BOYLE: Well, if we can go off the record -- and there's no need to go to the Judge. No. 1, Internal Affairs is no longer handled by the police department, has not been so for the past six months. So there hasn't been any recent investigations he's ordered. Chief Baylor doesn't order them. They come --
MS. MATTISON: I'd ask -- first of all, we are on the record and that's not a proper objection and this witness just testified that there are investigations every day and I find it very hard to believe that as the chief of the police department that he can't remember any more than one name.
A. Well, no, just get -- I'm not saying that was one. I mean, give me just a second. I can -- I'm trying

to think. It wouldn't take me two minutes to call the office and say who do we have under investigation.

MR. BOYLE: I would ask that counsel clarify the question. Are you asking for what investigations are pending?

MS. MATTISON: I'm asking for him to give me the name of anybody who he knows who has been investigated, it's a very simple question, ever while --

A. Just ever.

MS. MATTISON: -- while he's been the police chief.

MR. BOYLE: How many names would you like?

MS. MATTISON: As many as he can remember. Doesn't seem like he can remember any more than one right now but --

MR. BOYLE: I'll raise the attorney/client privilege since all the

investigations are initiated out of our office.

MS. MATTISON: I'm only asking for the name.

MR. BOYLE: I'll be glad to give you the names. He's saying he can't remember.

MS. MATTISON: This -- bumblebee. This goes to a number of issues and I'd like for him to tell me what he can tell me or if he wants to testify under oath that he can't remember a single name of anybody who's ever been investigated while he's been there, then that's his testimony. Either way he gives me the names --

MR. BOYLE: He's already given you a name.

MS. MATTISON: He's given me one name. I've asked him to tell me everybody --

MR. BOYLE: Well, we're asking how many names you want?

MS. MATTISON: Everybody he can remember since he's been -- since he's been the chief.

A. I'm trying to think of some. Spencer.

Q. (By Ms. Mattison) Spencer's first name?

A. Lewis, Fanning, Flowers, Murphy, Dixon, Davis. And you're talking about any type discipline; right?

Q. Investigation. If you're answering discipline, that's fine too.

A. Discipline; Hicks, I think. And there's tons of others. If I look at a list, I could go down the list and probably tell you tons of them.

Q. Has Mitchell ever been investigated or disciplined, Major Mitchell?

A. I -- if it is, I don't recall.

Q. The Murphy, is it the

Captain Murphy we've been talking about?

A. Major Murphy.

Q. Major Murphy, is it Major Murphy we've been talking about?

A. Correct.

Q. What was he disciplined for?

A. No. I thought you just said investigations or discipline.

Q. Well, it was a little unclear. Was he --

A. No, he was not disciplined. I think he was investigated.

Q. For?

A. I don't know the exact charge.

Q. Just roughly. I mean, he's your --

A. He was not deputy chief at the time.

Q. Okay.

A. It was something between, I

think, him and Captain -- Captain Hicks, who's a shift commander that worked for him. Another one on there is McQueen.
Q. Has Major Murphy ever been disciplined or now deputy chief, has he ever been disciplined that you're aware of for anything?
A. I'm not -- not since I've been there, I don't think he has.
Q. Well, do you know whether he was disciplined before?
A. I'm not sure.
Q. Have you ever been disciplined?
A. Never been suspended for anything. I think I -- I don't even think it went in the file. I've been verbally counseled.
Q. For what?
A. I don't know.
Q. You don't remember what you were verbally counseled for?
A. That was like probably 20,

30 years ago.
Q. What about Lieutenant Bolton, has he been investigated?
A. I don't know.
Q. So Plaintiff's 19 is chief -- I'm sorry, Major Mitchell's recommendation or notice to you basically that Stokes had been found guilty of duties of responsible employment but not duty to remain fit; is that right?
A. From the entire board, yes.
Q. That's right.
A. Yes.
Q. You said you had roughly five, roughly give or take, some roughly 500 female -- I'm sorry. Roughly 500 police officers, is that in the whole department or is that patrol officers?
A. We have -- as of right now, we have 510 allotted slots for sworn officers, does not include jail or

civilians and other personnel that work for us.
Q. Do you have a sense of how many -- roughly how many of those are patrol officers?
A. Just a rough guess?
Q. Yeah.
A. 200 plus.
Q. Do you have -- bumblebee this. Do you have a judgment as to how many of those patrol officers are female?
A. I don't know.
Q. I'm sure you've got logs that would show us that.

(Plaintiff's Exhibit No. 20 was marked for identification and attached hereto.)

Q. This is Plaintiff's Exhibit 20. I'm sure you've seen that since you wrote it. Now, you tell the mayor that

charges one and two were sustained by the board; correct? Look at the second paragraph.
A. (Complied.) Based on the finding of the review board -- board recommended that Corporal Stokes be dismissed, yes.
Q. Line before that you say charges one and two were sustained; right?
A. Correct.
Q. In fact, the board didn't sustain charges one and two. It only sustained charge one; correct?
A. Yes. But he also has the other paperwork also.
Q. Right. But what you told the mayor --
A. Yes. That's just --
Q. -- is not true?
A. That's just a typo.
Q. Oh, it's a typo?
A. Well, it was not intentional

because I told them I'm sustaining both charges. What I intended to do and the board --
    Q. Where do you see here that you sustained?
    A. That I'm going to uphold both charges.
    Q. But where do you say that?
    A. I here by uphold the board recommendation to both charges.
    Q. I'm not going to argue with you. But is that your testimony is that --
    A. Yeah, that's my intent.
    Q. Let me -- so let me be clear. Was it a typo when you told them that charges one and two were sustained, is that your testimony now that you made a typo?
    A. I didn't type this.
    Q. Well, that somebody made a typo --
    A. Correct.

    Q. -- and you signed it?
    A. I have this memo right here, Exhibit 19.
    Q. Right.
    A. That says they sustained one. I came back and sustained both. That's my --
    Q. No. My question is: You say charges one and two were sustained, and in fact, you just testified the board did not sustain both charges; correct?
    A. Correct.
    Q. Now, writing, telling the mayor that charges one and two were sustained by the board, was that a typo, is that your testimony now?
    A. That's incorrect. Right.
    Q. Is there any -- any documentation to the mayor that -- where you state that you're overruling the board?
    A. This -- this is my

documentation and the intent of this memo was to --
    Q. Sorry. Go ahead. Anything else other than this memo?
    A. You didn't let me finish.
    Q. Well, do you have anything else other than this memo?
    A. No. You didn't let me finish my statement. The intent of this memo is to -- for me to sustain both charges.
    Q. Why didn't you say that?
    A. Like I said, that's a clerical error.

    (Plaintiff's Exhibit No. 21 was marked for identification and attached hereto.)

    A. (Reviewed document.)
    Q. You recognize this document?
    A. Yes. Yes, ma'am.

    Q. Is this your signature?
    A. The -- three quarters of the way down, yes. And it clarifies just what I said, sustained both charges.
    Q. We disagree with that, sir. We'll let the Court make a determination about that.

    (Plaintiff's Exhibit No. 22 was marked for identification and attached hereto.)

    Q. Show you Plaintiff's Exhibit 22. Ask if you've seen that?
    A. (Reviewed document.)
    Q. Have you seen that?
    A. I don't remember this.
    Q. Were you aware that Ms. Stokes had filed an EEOC charge? Were you aware that Deputy Stokes had filed an EEOC charge? I'm assuming you were.
        MR. BOYLE: Object to the form.

A. I'm -- yes, I think so, yes.
Q. Have you, yourself, ever filed any EEOC charge?
A. No.
Q. Have you ever sued anyone?
A. No. No, I don't think so.
Q. Have you ever been sued other than -- other than in your individual capacity or just as -- well, let me break it down. Apart from your duties in the police department, have you ever been sued?
A. I don't think so. I think all of them, to the best of my knowledge, have been related to the police department or to a government agency.
Q. Have you ever sued anybody? I may have just asked you that.
A. I don't think I have. I don't think so.
Q. Have you been sued relative

to employment issues other than this case? I'm assuming the answer is yes.
A. Probably but I don't recall a case. I would assume so as a police officer, yes.
Q. Have you ever testified in an unemployment case either by deposition or in court? I assume you testify a fair amount.
A. I have testified but I'm not sure if it was an employment case or not.
Q. How many times have you testified just roughly, hundreds?
A. And that's a guess, yes.
Q. Can you tell me -- since you don't remember seeing Plaintiff's Exhibit 23, I'm assuming you can't tell me --
A. 23?
Q. 22. I'm sorry. Thank you. I'm assuming you can't tell me what investigation, if any, was done with

regard to Deputy Stokes' charge of discrimination?
MR. BOYLE: Object to the form.
A. I don't recall this. I don't recall seeing it.
Q. Right. So the question was I'm assuming that you can't testify as to whether any investigation was done on Deputy Stokes' charge of discrimination?
A. Again, I don't recall any.

(Plaintiff's Exhibit No. 23 was marked for identification and attached hereto.)

Q. Plaintiff's Exhibit 23. Have you ever seen that? I represent that this is the fitness for duty evaluation --
A. I think, yes, ma'am.
Q. -- the department had done.

A. To the best of my knowledge, yes, I have seen this. Was this to John Carnell?
Q. Yes.
A. Yes, I think so.
Q. You review this before Deputy Stokes' termination, do you know?
A. I don't remember this document per se, but I'm sure I've seen the document. I would assume.
Q. Do you have any evidence that the information contained in Plaintiff's Exhibit 23 is inaccurate?
MR. BOYLE: Object to the form.
A. Again, I don't remember this document.
Q. Look at it now.
A. You need me to read the whole document?
Q. If you want to. Just do whatever you --

A. What's your question?
Q. Do you have any evidence that the information contained in Plaintiff's Exhibit 3 is inaccurate?
A. No, ma'am, I wouldn't have any evidence.
Q. Fair enough.

(Plaintiff's Exhibit No. 24 was marked for identification and attached hereto.)

Q. Plaintiff's Exhibit 24. Have you ever seen this document?
A. It looks like part of the file. It appears to be, yes, ma'am.
Q. Have any evidence that the information contained in Plaintiff's Exhibit 24 is inaccurate?
A. Not to my knowledge.

(Plaintiff's Exhibit No. 25 was marked for identification and

attached hereto.)

Q. Plaintiff's Exhibit 25, same question, have you seen this document before? Looks like it's part of the file.
A. It appears to be part of the file, yes.
Q. Any evidence the information contained in this document, Plaintiff's Exhibit 25, is inaccurate?
A. Not to my knowledge.
MS. MATTISON: Let's take a break for lunch.

(A brief lunch recess was taken.)

Q. (By Ms. Mattison) There is a document entitled roughly the standard operating procedures that apply to the police department; is that right?
A. Could I see it?
Q. Well, are you familiar with

a manual several inches that's -- that deals with the standard operating procedures for the police department?
A. I'm familiar with the rules and regulations of the police department yes, ma'am.
Q. Is that something other than the standard operating procedures?
A. It might be titled that. We call it rules and regulations but it might be titled something else.
Q. And what does that -- does that deal with discipline issues? I assume it does.
A. It deals with the different charges and so forth within the police department.
MS. MATTISON: Is there a reason we didn't get a copy of that?
MR. BOYLE: Of the police department rules and regulations, those were all sent. If it was asked for, it was sent other than the specific

objections we talked about and through correspondence, everything was sent.
MS. MATTISON: Well, we asked for all documents which would deal with a number of things including disciplinary actions and that didn't come.
MR. BOYLE: The rules and regulations did not come?
MS. MATTISON: Uh-huh (affirmative response).
MR. BOYLE: I'll have to check. It was my understanding it did come and this is the first I heard of you not receiving them.
MS. MATTISON: I didn't know they existed until recently. What I have is I have the city and county personnel board rules and regulations. And I have the county handbooks. Primarily the employee benefits, I have that, but I don't have any internal operating procedures.

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I'm assuming that there are also internal operating procedures relative to the due process discipline that is -- that employees are subject to?

MR. BOYLE: Object to the form.

Q. Is that correct?

A. I'm not sure what you said.

Q. (By Ms. Mattison) I'm assuming that there are operating procedures in terms of how discipline is to occur, the procedures for discipline, in addition to what exists in the city and county of Montgomery Personnel Board rules and regulations, there are some internal operating procedures?

A. Our written rules would be the city, county personnel but we also have the rules and regulations that you were just speaking of.

Q. And is that a book about five inches?

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A. It's extremely thick, yes.

Q. Any other rules that apply to personnel issues? Bumblebee. Any other rules that apply to any personnel issues other than the city and county personnel board rules and regulations and the standard operating procedures? And I guess there's an employee handbook. I have the City of Montgomery employee benefits and policies, so I have that. Is there anything else that exists?

A. That's all I recall.

MS. MATTISON: Are you aware of anything else that exists, Mr. Boyle?

MR. BOYLE: I looked in the handbooks and both federal and state laws, the various handbooks whether city, county personnel, city or the police department rules.

MS. MATTISON: What are the various handbooks as you understand them?

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MR. BOYLE: I just laid them out. The city, county personnel.

MS. MATTISON: Right.

MR. BOYLE: City of Montgomery.

MS. MATTISON: The one that I just showed you, the City of Montgomery employee benefits and policies?

MR. BOYLE: Yes. And the police department rules and regulations.

MS. MATTISON: That's what I don't have.

MR. BOYLE: I'll ensure that you get it.

MS. MATTISON: And then there's also -- I have some other -- I also have the City of Montgomery employees benefits handbook called, Time and a half.

MR. BOYLE: That's from the finance department. That's an

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individual employee. It just explains the employee's benefits under rules and regulations. That'd be handed out to the individual employee.

MS. MATTISON: Right. And then I have -- so we're missing the rest of it.

The -- Plaintiff's Exhibit -- I somehow managed to lose my copy. Plaintiff's Exhibit 18. All right. Now, in making your recommendations -- any recommendations that you made involving Deputy Stokes, you've testified about the degree or your reliance on John --

MS. STOKES: Carnell.

Q. -- Carnell's opinion. Did you also base any of your recommendations on Captain Murphy's recommendations?

A. Major Murphy.

Q. Major Murphy, same question.

A. I think what I said was I

got information from risk management, from the attorneys, possibly even from the mayor's office, and possibly even the personnel office.
Q. Go ahead.
A. And Major Murphy made the recommendation, right.
Q. Did you rely on Major Murphy's recommendation at least in part?
A. I don't know if you'd say I relied on it. I reviewed what he had, what the trial board had, and then it came to me.
Q. Did you adopt his recommendations, did you ratify his recommendations?
A. Yes. I think his recommendation was two charges and dismissal. And I think trial board was one charge and dismissal and I said two charges and dismissal.
Q. Look please at Plaintiff's

Exhibit 18, the testimony of John Carnell.
A. What page?
Q. Beginning at Page 8/9. Now, first of all, the -- would you agree with me that not every employee who is returning from Family Medical Leave Act is provided or is required to undergo a fitness for duty evaluation?
MR. BOYLE: Object to the form.
A. That would be true.
Q. And John Carnell, I guess he's Lieutenant Carnell?
A. He's not a police officer. He's mister.
Q. All right. I thought Mr. Carnell -- he indicated that he had -- looking at the Page 10, he had a concern that she posed a risk of liability because of the situation and what happened to her. Do you see that?

A. Where are you? I'm not sure.
Q. I'm sorry. Page 10.
A. Where?
Q. About -- almost half of the way down. Right here (indicated).
A. This one?
Q. No. Right there (indicated).
A. Okay. What about it?
Q. Well, I'm asking -- you've read that; correct?
A. Yes, ma'am, just read it.
Q. And my understanding is you two had such -- had a similar concern; is that right?
A. About the public safety, yes.
Q. What did you think she might do?
MR. BOYLE: Object to the form.
A. What?

Q. What did you think she might do that --
A. She already tried to kill herself. And if she tried that again and she had a partner or a citizen out there and didn't respond, that would be a problem, a public safety issue.
Q. So you're saying that if she killed herself while on duty, then she couldn't respond?
A. Right. And leaves her partner also or her back-up or if she was a back-up, it creates a public service -- a public safety concern.
Q. What were some other -- what were some other safety concerns?
A. Like I said earlier, for the -- other citizens, other officers, and for herself also.
Q. Right. I'm just trying to figure out what -- other than attempting to kill herself while on duty, any other concerns that you thought?

A. Just what I just said, that she wouldn't -- if she didn't do her job, like she tried to kill herself, that would put other people in harm's way.

Q. Now, Mr. Carnell essentially testifies that he didn't think that Ms. or that Deputy Stokes was really capable of coming back and performing her job duties and sounds like you essentially don't disagree with that, am I right?

A. As far as I'm concerned?

Q. Yes.

A. I don't know what John Carnell thinks, but what I think is no. From the act that she committed, there is a problem with that act, yes, ma'am.

Q. And that would interfere -- that would really mean she couldn't satisfactorily perform her job duties?

A. I see a problem with the act that she committed, yes, ma'am.

Q. Right. But the act she committed and the safety concerns associated with it, meant that you basically thought there was enough of a concern that she couldn't perform her job duties?

A. She committed an act that in my opinion created a public safety concern and so that's why I recommended dismissal.

Q. And her -- but I'm assuming if you thought that she could successfully complete her job duties, you wouldn't have recommended dismissal? If you thought she could have come back and safely performed her job duties, you wouldn't have recommended that she be dismissed, I'm assuming?

MR. BOYLE: Object to the form.

Q. Am I right?

A. We go by the rules and regulations of the police department and

that's what I follow are the rules and regulations of the police department. And very simply is -- just as you gave earlier when we started, let me give you one way out there. An officer goes out and kills someone, but I'm not going to let him stay an officer, okay. And the same thing goes for this. If a person commits that act, I'm going to recommend they be dismissed and that's what I did.

Q. But the point I'm making and maybe it's just such a simple point that it doesn't -- I'm having a hard time communicating it, but essentially because of what she did you deemed that she wasn't capable -- she was no longer capable of safely performing the duties of her job?

A. It's just what I said. I said it three times now. That's my answer. Is the act that she committed put her in violation of the Montgomery

Police Department's rules and regulations and I felt she should be dismissed.

Q. Well, did you think she could safely perform her job or not?

A. I'm -- I think what she did created a problem and violated the rules of the police department, period. That -- I mean, that's it. That's what she did. Once you violate the rules of the police department, we go by that. We go by your violation of the rules of the police department.

Q. But my question to you is and I'm entitled to an answer on this. Please bumblebee it. Do you think that she could have safely performed her job when you recommended her termination or not?

A. Okay. For the fourth time, my answer is --

Q. I need a yes or no. Do you think she could have safely performed

her job duties or no?
A. I --
MR. BOYLE: Chief, she's asking for your opinion.
Q. Yeah.
MR. BOYLE: I instruct you go ahead and answer. In your opinion, do you feel she could have?
A. I don't think so because of what she did.
Q. Now, do you know whether anybody attempted to contact her physician to determine her own physician's opinion of her ability to return to work?
A. I -- I don't recall if I did.
Q. My understanding is that it's the department's policy that if I'm a police officer and I have a drug or alcohol problem and I'm taking illegal drugs and I come to you and I say I've been taking illegal drugs on and off

work and I've got -- I've got a problem and I want to stop and I'm going to go into rehab, that the department's policy is that I would be allowed to go into rehab so long as I demonstrated a commitment to getting some help for my problem; is that right?
MR. BOYLE: Object to the form.
A. To be honest with you, that's -- I think what she's saying is something that came from higher than the police department, came out of city, county personnel. Because since in my almost 31 years, our recommendations were basically if you're caught using any illegal drugs you were recommended for termination. I think what you quoted was what the personnel -- I'm thinking it's a personnel rule is if the person comes forward.
Q. Right.
A. Yes.

Q. That's what I'm saying. If the person comes forward and says I've been using drugs or alcohol and I've got a problem and I want to stop and I want to go into treatment that it's the department's practice, policy, that the person will be allowed to go into treatment?
A. I think that is under -- I think that is under the personnel rules.
Q. Sure.
A. To be honest with you, I've had conversation I think even possibly with the mayor's office because I disagree with that. I think anyone that's a law enforcement officer should not be using illegal drugs, period. And my recommendation is they be dismissed from the police department.
Q. Right. But it's not your personal police department so --
A. I answered it that way.
Q. So -- but -- all right. So

we're saying the same thing although you may have a personal disagreement with the way it's handled, it's your understanding that if somebody is engaged in the use of either abuse of prescription medication or illegal drugs that -- and they're not caught, they are -- they come and self-disclose, that they're allowed to go into treatment?
A. I think that is some form of the personnel rule.
Q. And that's happened with at least one police officer, has it not, under-- when you've been --
A. Since I've been chief?
Q. Uh-huh (affirmative response).
A. I think I remember one before chief and I'm trying to remember the one. If you say it was one, if you call the name, I could tell you.
Q. Now, what is your -- and the same position holds true, I guess, with

alcohol abuse, that if -- I mean, alcohol abuse is not -- I mean, statistics, alcohol abuse is like 10 percent of the population at large. I've heard that lawyers are one of the highest levels of it. I'm assuming that there's some level of alcoholism in the police department. You don't have any reason to disagree with that, do you?

MR. BOYLE: Object to the form.

A. I mean, I need specifics.

Q. Well, I mean, you acknowledge that you have -- well, strike that.

If -- if the substance abuse is not illegal drugs, if it's alcohol, then the same question, if a person self-discloses that they have a problem with alcohol, they are not written up and disciplined, they're allowed to seek treatment for it; is that correct?

A. And again, I would have to

look at the rules -- the personnel rules, but I think in the personnel rules it might do both.

Q. Do you have a personal issue with the alcohol abuse? I mean, you said illegal drugs you thought anybody should be terminated.

A. You mean subject drinking --

Q. Yeah.

A. -- he and she's at work, yes, I do have a problem with it.

Q. Actually, I'm not talking about drinking at work so much as I'm talking about alcoholism. Somebody who's --

A. Do I have a problem with it, yes.

Q. Let me ask the question better. I'm not doing very well right now.

A person who is an alcoholic meaning not recovering alcoholic, do you think that they should automatically be

fired even if the person wants to go in treatment?

MR. BOYLE: Object to the form.

Q. Or do you think they should be disciplined assuming the person wants to go in treatment?

A. I think anyone whether it's alcohol or drugs if -- and drugs are illegal, alcohol is not, but if they do something that violate the rules and regulations of the police department, yes, they should be disciplined.

Q. Do you drink?

A. No, ma'am.

Q. Not at all?

A. Nothing.

Q. Did you ever?

A. No.

Q. Never in your whole life?

A. I don't think I ever drank. If it was, it was when I was very little and didn't know much about it.

Q. Now, you said something a couple of minutes ago, do you think every employee who attempts to commits suicide should be terminated?

A. If you attempt to commit suicide?

Q. Uh-huh (affirmative response).

A. Yes. A sworn officer, yes.

Q. You don't remember Major Murphy coming to work with a big black eye because a fight he got in or a small black eye but a black eye?

A. No, I don't.

(Plaintiff's Exhibit No. 26 was marked for identification and attached hereto.)

Q. Show you Plaintiff's Exhibit No. 26 and ask you if this is the job -- we don't have another copy.

MS. MCGINLEY: We do, it's at the back --
MR. BOYLE: I don't need a copy.
Q. Is that the job description for your position?
A. It appears to be, yes.
MR. BOYLE: Chief, I'll represent that was faxed by my office from personnel.

(Plaintiff's Exhibit No. 27 was marked for identification and attached hereto.)

Q. I'm going to show you Plaintiff's 27 and ask you if this is an accurate description of Deputy Stokes' position prior to her termination? I'm assuming corporal and police officer have the same job description.
A. No.
MR. BOYLE: Well, they have

the same general job description as a police officer. There's more responsibility for corporal.
A. Correct.
MR. BOYLE: The essential function of the job is the same.
Q. You agree with that?
A. Yes, ma'am.
Q. And Plaintiff's 27 is the essential functions for the police officer position?
A. It appears to be, yes, ma'am.
MR. BOYLE: That again is faxed from my office.
Q. I'm assuming you read the investigation report. I may have asked you this. I apologize if I did. That was completed by Lieutenant Bolton?
MR. BOYLE: Object to the form.
A. Like I told you, I reviewed the --

Q. Sergeant Bolton. Well, who was lieutenant at one point and sergeant at one point. That would be Plaintiff's Exhibit 11. I would assume prior to making --
A. Didn't you just tell me to read it just now also?
Q. No. We actually had you read 18. The investigation from --
A. No, that's the one you had me to read earlier.
Q. Yes, I did. I'm assuming you had reviewed that prior to making your recommendation?
A. Yes, ma'am. I reviewed the file.
Q. So you were aware that she had been -- that she had been diagnosed with depression and was -- had at least sought -- had a history of seeking mental health treatment?
A. I -- I vaguely remember her being -- telling Sergeant Bolton that

she had been involved with counseling I think it was.
Q. You don't have any reason to disbelief her statements about her depression or her treatment, I'm assuming?
A. I don't know anything about her.
Q. Well, you know what you read. You don't have any evidence that it's incorrect; correct? Is that right?
A. Yes, ma'am, I know what I read.
Q. Now, there was also a hearing it looks like in May on May 8th that looks to me was -- it was a hearing involving the mayor's assistant?
A. I was not present.
Q. Are you aware that a hearing occurred?
A. That -- she has a right to appeal to the mayor's office so I'm

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assuming that's the hearing that you're speaking of.

MS. MATTISON: Mr. Boyle, I'm unclear as to whether there was a transcript for that hearing.

MR. BOYLE: I --

MS. MATTISON: It may be this, but it's not really a transcript.

(Plaintiff's Exhibit No. 28 was marked for identification and attached hereto.)

MS. MATTISON: Let me show you what I've marked as Plaintiff's Exhibit 28. I don't normally ask lawyers questions. I can ask you first but my hunch is you're not going to know the answer.

MR. BOYLE: He wasn't present. I don't mind answering. This is a note review done by the secretary for Mr. Burdell.

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MS. MATTISON: Is that essentially what transpired on May 8th?

MR. BOYLE: It is.

MS. MATTISON: So there's no actual transcript per se?

MR. BOYLE: There is not a transcript and she normally tapes those. We have since implemented we do transcribe them now, but at the time, we did not. And she normally tapes them. I do not know if we have the tapes and I will check and notify your office.

MS. MATTISON: Bumblebee.

MR. BOYLE: We can supplement them to the deposition or --

MS. MATTISON: Okay. Or you can just send them to me and I'll --

MR. BOYLE: I will.

MS. MATTISON: This is also to your lawyer. I'm assuming you got a roster of employees and how many female -- how many of them are females in the police department?

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MR. BOYLE: To be honest with you, I do not know if we do. If you're talking citywide, we would have to petition the city, county personnel board if they would have the numbers. I don't know if any of our databases quantify by male or female without doing a by hand count.

MS. MATTISON: Well, you might have to count -- generally you've got a list of employees and it will --

MR. BOYLE: Are you speaking of the police department specifically?

MS. MATTISON: Yes, only the police department.

MR. BOYLE: I think --

MS. MATTISON: You have to for affirmative action, I assume.

THE WITNESS: I think we can get it.

MR. BOYLE: I think we can get it. I don't know if personnel has that information or if we do.

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THE WITNESS: They can pull it up, I think.

Q. (By Ms. Mattison) My understanding is that roughly on any shift -- there are three shifts; is that right, of the patrol officers?

A. When she was there, I think so. Because we have overlapping shifts now. We have CRT teams. We have precincts now, so I'm not sure.

Q. Roughly there were about five out of 80 female police officers on a shift, does that sound about right?

MR. BOYLE: Object to the form.

A. I don't know.

Q. Well, do you take any steps to assure that females are recruited -- actively recruited?

A. We recruit qualified officers whether it be male or female, black or white. It doesn't make any difference. We recruit qualified

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officers that can pass the police academy.

Q. You don't do any outreach to people of color or females, no affirmative action, not affirmative action, strict legal speaking, but no attempts to get interested persons who are female?

A. We recruit -- as a whole, we recruit males, females, blacks, whites, Hispanics. We recruit everyone.

Q. Any officers with disabilities?

A. Not to my knowledge.

Q. Would an officer with a disability in your opinion be able to be an officer? In other words, would you have a problem with having an officer who had a disability?

A. He or she --

MR. BOYLE: Object to the form. Go ahead.

A. He or she has to pass the

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Montgomery Police Department under the doctor. They have to pass the doctor's requirements meaning the City's requirements and they have to be able to complete the physical requirements of the academy.

Q. Where are those requirements written?

A. It's under the doctor, city doctor.

Q. I'm assuming that once someone is hired they're given a conditional offer of hire subject to an employment -- I'm sorry, subject to a medical evaluation; is that right?

A. Yes, ma'am, I think so.

Q. And then how does the doctor know what standards to judge whether the person is eligible?

A. I'm -- the Peace Officer Standards.

Q. Yes.

A. The Peace Officer standards

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Is one. The police officer department's standards which can be higher than the minimum standards than the Peace Officers Association or peace officers and also the medical team that the city hires.

Q. My question is: Those standards that you just testified to, are they written down? I'm assuming they have to be written down.

A. I'm assuming they are in recruiting or either like I said under the doctor or under POS.

MS. MATTISON: Bumblebee. We're going to want those also.

MR. BOYLE: What's that?

MS. MATTISON: That standards, the medical standards for hiring.

MR. BOYLE: When you say those, are you talking about APOS or you talking about ours?

MS. MATTISON: I'm sorry.

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APOS?

MR. BOYLE: APOS is Alabama Police Officer Standards, that's a state organization, not us. And ours I believe are contained in that handbook which we'll supplement.

MS. MATTISON: Contained in the handbook that's coming to me?

MR. BOYLE: Yes.

MS. MATTISON: Well, wherever they are, I just need to know what the medical standards are, what the physical qualifications are.

MR. BOYLE: Now, there are new hire and officer are two different standards. Both of them are in there.

MS. MATTISON: Okay.

What would be your best judgment as to how many police officers -- people in the police department who are dismissed for cause in a year?

MR. BOYLE: Object to the

form.
Q. Just roughly. Are we looking at a hundred, 15? I'm just really trying to get a ballpark.
A. I don't know. I can find out. That's no problem. But I have no earthly idea. I'm sure it changes every year.
Q. I hate to keep bumblebeeing this but it really does make it much easier when I'm going through it. Do you know what the responsibilities of the risk manager are?
A. No.
Q. Risk manager doesn't report to you in any fashion, I assume?
A. No, ma'am.
Q. Do you know anything that you haven't testified to about Deputy Stokes' relationships with her officer -- fellow officers, with her community, with supervisors, anything about her performance that you

haven't -- that you haven't told me about?
A. About her performance.
Q. Or relationship -- well, let's break it down. Performance that you haven't testified to?
A. Not that I can recall. Like I say, I really don't know her that well at all.
Q. Do you know how she related to other -- to her fellow officers or to her supervisors?
A. I have no earthly idea.
Q. Do you have any evidence that when she returned to work after family medical leave in the administrative arena that she didn't perform those duties adequately?
A. I have no idea.
Q. Was she technically on light duty or on administrative duty or are they the same thing?
A. I want to say she was -- I'm

not sure what they put her on but she was on the administrative desk, I know that.
Q. One of the things that she was determined to have violated was, I'm not stating this verbatim, but engaging in behavior which reflected poorly on the department, you with me on that? You can say whatever words.
A. Duties of --
Q. Yes. Yes.
A. Yes, ma'am.
Q. What was it about her suicide attempt or her past mental health issues which reflected poorly on the department?
A. I don't think the officers nor the general public, her coworkers, and anyone else be looking for an officer that would be out trying to kill themselves.
Q. And why is that? She attempted it once. I mean, is it your

testimony that if someone attempted suicide -- strike that.
First of all, you didn't have any evidence that she might attempt it again, did you? Sounds like it doesn't really matter. She attempted it once and that was enough; is that right?
MR. BOYLE: Object to the form.
A. She violated the rules of the police department and that's -- I recommended she be dismissed, yes.
Q. But her, quote, violation of the rules of the police department was she attempted suicide; right?
A. She violated the two charges that I sustained.
Q. By attempting suicide; right, wasn't anything else she did?
A. She committed the act of trying to kill herself, yes.
Q. Now -- and it's your opinion that her attempting to kill herself

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makes the department look bad or negatively reflects on the department?
A. It is my assessment that she violated those two rules and regulations and I think it reads it out. I don't have it in front of me.
Q. I'm still having a hard time understanding why. Why does it reflect poorly? I understand that you think it did reflect poorly. And I understand, you know, her attempt to commit suicide is violation of the rule, the rule being it's a poor reflection on the department. What I'm trying to understand is why, how is it reflecting bad on the department?
A. Because she attempted to kill herself.
Q. Why does that make the department look bad?
A. Because she tried to kill herself.
Q. I understand that. But why

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does that make the department look bad? It may make her look bad but why does it make the department look bad?
A. When she was employed there, she was part of the department, period.
Q. Did you understand that mental illness is an illness, do you not?
A. Mental illness?
Q. Yes.
A. Yes, I assume so.
Q. And you can't think of any time you've attempted to use either one of these rules on an employee who didn't take care of their physical health; correct?
MR. BOYLE: Object to the form.
A. I'm sorry. I didn't catch what you --
Q. You can't cite to me any time that the department disciplined somebody for not taking care or failing

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to take care of their physical health?
A. They will dismiss people. We will dismiss people even if they're overweight.
Q. Who's been dismissed because they're overweight?
A. I said you can be dismissed. So they are disciplined. Most of them will lose the weight within the prescribed time they give them. So yes, I guess because you said -- to answer your question, I guess, yes, because I think there have been people that have been disciplined because of weight, just as simple as that.
Q. Bumblebee. But they're given an opportunity to lose the weight?
A. Under the rules and regulations, it's spelled out in there what they can do.
Q. And these rules and regulations are the police department,

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the five-inch book that's going to be coming to me?
A. It's the rules and regulations of the police department.
MS. MATTISON: Let's walk outside for just a second.

(A brief recess was taken.)

MS. MATTISON: I don't have anything else. What I'm going to do is for right now is I'd like to get some of these other -- I'm not going to call you back just to call you back. But your lawyer and I are probably going to duke it out over personnel files for comparatives. And I'd like to see the big book. I'm not going to call you back -- I don't know if I just said this -- just to call you back but my hunch is I will have some more questions to ask you and I don't want to sit here and waste your time right now.

A. No problem.

MS. MATTISON: So I'll suspend it subject to recall if we need to.

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EXHIBIT 4

1

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CIVIL ACTION NO.: 2:07-cv-686
CANDIDA STOKES,
Plaintiff,
vs.
THE CITY OF MONTGOMERY, et al.,
Defendants.

STIPULATION

IT IS STIPULATED AND AGREED by and between the parties through their respective counsel, that the deposition of John Carnell may be taken before Angela Smith McGalliard, RPR, CRR, at the offices of Davis & Herrington, at 8650 Minnie Brown Road, Ste: 150, Montgomery, Alabama 36117, on the 30th day of June, 2008.

DEPOSITION OF JOHN CARNELL

2

IT IS FURTHER STIPULATED AND AGREED that the signature to and the reading of the deposition by the witness is waived, the deposition to have the same force and effect as if full compliance had been had with all laws and rules of Court relating to the taking of depositions.

IT IS FURTHER STIPULATED AND AGREED that it shall not be necessary for any objections to be made by counsel to any questions except as to form or leading questions, and that counsel for the parties may make objections and assign grounds at the time of the trial, or at the time said deposition is offered in evidence, or prior thereto.

IT IS FURTHER STIPULATED AND AGREED that the notice of filing of the deposition by the Commissioner is waived.

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CIVIL ACTION NO.: 2:07-cv-686
CANDIDA STOKES,
Plaintiff,
vs.
THE CITY OF MONTGOMERY, et al.,
Defendants.

BEFORE:
Angela Smith McGalliard,
Commissioner.
APPEARANCES:
DEBORAH A. MATTISON, ESQUIRE, of WIGGINS, CHILDS, QUINN & PANTAZIS, 301 19th Street N., Birmingham, Alabama 35203, appearing on behalf of the Plaintiff.
RACHEL L. MCGINLEY, ESQUIRE, of WIGGINS, CHILDS, QUINN & PANTAZIS, 301 19th Street N., Birmingham, Alabama 35203, appearing on behalf of the Plaintiff.

APPEARANCES (continued):
MICHAEL D. BOYLE, ESQUIRE, of the CITY OF MONTGOMERY, 103 N. Perry Street, Montgomery, Alabama 36104, appearing on behalf of the Defendant.
ALSO PRESENT: Candida Stokes
* * * * * *

I, Angela Smith McGalliard, RPR, CRR, a Court Reporter of Pike Road, Alabama, acting as Commissioner, certify that on this date, as provided by the Federal Rules of Civil Procedure and the foregoing stipulation of counsel, there came before me at the offices of Davis & Herrington, 8650 Minnie Brown Road, Ste: 150, Montgomery, Alabama 36117, beginning at 10:15 a.m., John Carnell, witness in the above cause, for oral examination, whereupon the following proceedings were had:

JOHN CARNELL,

being first duly sworn, was examined and testified as follows:

COURT REPORTER: Usual stipulations?
MS. MATTISON: That's fine.
MR. BOYLE: Yes, ma'am.

EXAMINATION

BY MS. MATTISON:
Q. Would you state your name for the Record and spell it for us, please.

A. John Carnell, C-A-R-N-E-L-L.
Q. What is your date of birth?
A. June 30, 1953.
Q. Have you given a deposition before?
A. I've given a deposition before, yeah.
Q. Approximately how many times?
A. Five, six.
Q. All right. Have they been while you were working with the City?
A. Uh-huh.
Q. All of them?
A. I believe so. Yeah, all of them have been with the City.
Q. Okay. And what types of cases have you given depositions on before?
A. Worker's compensation --
Q. Okay.
A. -- I believe auto liability, and possibility a general liability. I think that covers it all.
Q. What do you mean general

liability?
A. Slips, trips, and falls, those kinds of things.
Q. Okay. Have you been involved in another case dealing with employment matters, other than worker's comp type issues?
A. Yes, ma'am.
Q. And would they have been --
MS. MATTISON: What was my question?
(Requested portion of the Record was read by the Reporter.)
Q. Let me ask it a different way. Have any of the depositions included employment matters?
A. Yes, I believe they have.
Q. Okay. And in what way? With the auto liability or -- put aside worker's comp. With regard to the --
A. No. There was one probably -- it was a positive drug test.

Q. What was your role in that?
A. I administer the drug program for the City. So my role was to give a deposition on that -- in that manner.
Q. Okay. Was that person -- What was the name of that person?
A. I don't remember.
Q. How long ago was it?
A. It's been a while.
Q. What's a while?
A. Year or two.
Q. Did that -- Was the person terminated?
A. I think that case is still going on.
Q. Was the person terminated?
A. I believe they were.
Q. Okay. Was there a race claim involved?
A. No.
Q. Okay. What type of claim was involved with the case?
A. He was contesting the drug

test.
Q. He was claiming that the test wasn't appropriately administered or it wasn't --
A. Wasn't appropriately administered and that it was not -- it was a false positive.
Q. And you don't, from a year ago, remember the person's name?
A. I'm trying to remember which one it is.
Q. Were there two?
A. No. I only made one deposition, but we've got several cases going on. I'm trying to remember which one.
MR. BOYLE: I can help.
MS. MATTISON: That's fine.
MR. BOYLE: Luther Stewart.
A. That's right. Luther Stewart.
Q. Okay. What drug did he test positive for?
A. He was one that tested positive for methamphetamines.

Q. Okay. And he was terminated, you said?
A. He was terminated.
Q. Okay. Approximately how many cases involving drug issues are you currently -- currently exist, just roughly?
A. Probably right now, three, that I know of.
Q. Okay. Do any of them involve Carnell Mills?
A. No.
Q. Do you know Carnell Mills?
A. I know who he is, yes. I know him.
Q. He tested positive for drugs, did he not?
A. Not to my knowledge, he didn't. I don't remember that.
Q. Could have, you just don't have any knowledge one way or the other?
A. I don't have any knowledge one way or the other, whether he tested positive or not. That name does not ring a bell.

Q. Now, my understanding from the deposition of the Chief, is that if somebody either tests positive or is addicted to drugs or alcohol, assuming they get treatment for it, that they are not necessarily terminated; is that correct?
MR. BOYLE: Object to the form. That's correct.
A. That's a possibility, yes.
Q. And who makes that decision?
A. The mayor's office.
Q. Do you make recommendations to the mayor?
A. All I do is give them the results of the test.
Q. Does that mean you don't make a recommendation?
A. I do not make a recommendation.
Q. Tell me about your background. How long have you been at the police department -- or the City, I guess?
A. I've been with the City for --

I just went over thirteen years in April.
Q. And what is your official title?
A. For the last five years I've been the risk manager.
Q. What were you before that?
A. I was the safety director.
Actually it will be five years in December.
Q. And in order to -- What did you do to prepare for this deposition today?
A. I walked in.
Q. Did you read anything?
A. Huh-uh.
Q. Meet with any lawyers?
A. No.
Q. Okay. Did you -- Have you read any information regarding Deputy Stokes in the last three months?
A. No.
Q. Okay. So you're going just purely from --
A. What I remember.

Q. Okay. Do you have a pretty good memory of the circumstances surrounding Ms. Stokes' situation?
A. Pretty good memory of what happened -- Where I was and what I was doing the day that I got notification of the incident.
Q. And who notified you?
A. I believe it was Major Murphy that notified me.
Q. Okay. What did Major Murphy tell you?
A. He told me that we had a police officer that had attempted to commit suicide.
Q. Did he say anything else?
A. He mentioned -- He said that it was Deputy Stokes, by name, and told me that she had taken an amount of -- I'm trying to remember if it was aspirin or whatever it was that she had taken.
Q. And what else did he tell you?
A. That she was -- That she was

going to the emergency room. And I think that's the extent of what my notification on it was.
Q. All right. And then did you -- Did you learn then that she had depression?
A. Not at that time.
Q. When did you learn that she had depression?
A. I think it came out when we all met in that room that day, down there in city hall, when we were trying to mediate the case.
Q. Were you here for the mediation?
A. Uh-huh.
Q. Okay. I guess I'm -- I'm sorry, I just --
A. Down there in the council chambers.
Q. Right. I guess I didn't remember. But, okay.
So at the time that Colonel

Murphy called you, Deputy Stokes was being checked into the emergency room, essentially?
A. That's what I was notified of, yeah.
Q. Who decided to get a fitness-for-duty evaluation for Ms. Stokes?
A. Now, I think that was my decision.
Q. Okay.
A. If I remember right, I notified Colonel Murphy that we should do a fitness-for-duty evaluation before she comes back to work.
Q. And why?
A. To determine if she was fit for duty.
Q. Okay. So -- And did you get the results of that evaluation?
A. I received I believe -- I can't remember if it was a letter -- Yeah, I think I received a letter from the American Behavioral people, Sharon Bell I think was

the lady that notified me.
Q. And so you understood from receiving that letter that Deputy Stokes was fit to return to work?
A. According to them, yeah, she was fit for duty.
Q. Do you have a medical background?
A. No.
Q. Did you have any evidence that she was not fit for duty?
A. At that time, no. I have to go basically on what they tell me.
Q. At any point, have you had any evidence that Deputy Stokes was not fit to return to her job?
A. No.
Q. Okay. Then why didn't she return to her job?
A. I can't tell you that. I turned the notification over to the chief of police and the decision is made above my pay grade.

Q. I've reviewed notes from Deputy Stokes' counselor at American Behavior, I think is what it's called. And in the beginning of February, do you remember having a conversation with one of Deputy Stokes' therapists from American Behavior?
A. No, I don't.
Q. You don't remember telling the therapist that Deputy Stokes was going to lose her job?
A. No.
Q. Okay. Is it possible you had a conversation with the therapist or somebody from American Behavior?
A. I can't remember.
Q. Okay. How did you first learn Deputy Stokes was going to lose her job? It was before she lost it, I assume.
A. I can't remember if it was from Chief Baylor or if it was through the legal office from the mayor's department or from mayor's office, I can't remember.

Q. And what did you hear?
A. I heard she was going to be terminated, dismissed.
Q. Okay. What was your understanding as to why she was terminated?
A. Because of the incident of committing suicide -- or attempting to commit suicide, excuse me.
Q. Okay. Now, you testified at the investigation involving Deputy Stokes, did you not?
A. Yeah. The trial board down there at the police department.
Q. Yeah. You testified --
A. I remember that.
Q. And do you remember testifying that you thought that Deputy Stokes was -- could possibly pose a risk?
A. I was -- I think I testified that I was concerned that she could possibly pose a risk, based on the job that she had to do out on the streets.
Q. And what would you base that

on ---+*-t did you base that on?
A. Well, the fact that she tried to commit suicide.
Q. Did you have any evidence at all that she might attempt it again?
A. No, I didn't.
Q. Well, then where -- I'm not clear how she might pose a risk, if you didn't have any evidence that --
A. Well --
Q. Hang on. Let me finish.
A. Okay. I'm sorry.
Q. That's okay.
What evidence did you have that she might pose a risk, if the doctors indicated that she was -- that she would not pose a risk and that she was free to return? What evidence did you have?
A. I guess the evidence that I was basing it on was what she did for a living and what happened. So there probably was -- There was no evidence.
Q. Did you communicate your

belief that she might pose a risk to anybody, but at the trial board?
A. No. Nobody but the trial board.
Q. Well, how -- Tell me what your memory is of learning, either from Chief Baylor or the legal department or the mayor, that Deputy Stokes may lose her job? What are you --
A. See, that's what I'm not clear on. I can't remember how I was told that she might lose her job, whether it was from the mayor, whether it was from Chief Baylor, or whether it was from the legal office.
Q. You were told, as I understand it, that she would lose her job?
A. That she was up for dismissal.
Q. Right. And that she would be dismissed; is that your understanding?
MR. BOYLE: Object to the form.
A. I believe that was my understanding, yes.

Q. She was going to be dismissed because she had attempted suicide?
A. Uh-huh.
Q. I'm sorry, you have to say yes or no.
A. Yes. Yes.
Q. And do you know what the rationale was, what the fact that she had attempted suicide, why would that cause her termination? What was your understanding?
A. It was my understanding that according to what I was told, and I can't remember where it come from, that she was being terminated due to the fact that attempting suicide or committing suicide was against the law, something of that nature.
Q. Okay. Do you know if attempting suicide is against the law?
A. From what I've understood since then, is that it -- If you're successful, you're okay, it is against law; but if you don't, it's not against the law. If you're not successful, something like

that. It's really strange.
Q. How did you come to -- How did you hear that?
A. I'm trying to remember. I think it came from -- through conversations with the legal department about whether it was -- whether you attempted or if you didn't attempt it, one was against the law and one wasn't. But that was after the fact.
Q. After she had been terminated?
A. After she had been terminated.
Q. Okay. Do you think it was fair to terminate her?
MR. BOYLE: Object to the form. You have to answer.
A. I know I have to answer. Do I think it was fair to terminate her?
Q. Yes.
A. No.
Q. Okay. Did you know that she is working for another police department?
A. I know that, yeah.

Q. Okay. And doing very well at her new job?
A. I didn't know that.
MR. BOYLE: Object to the form.
A. But I know she was working for another police department.
Q. Did you know Deputy Stokes at all before she attempted suicide?
A. No. The only time I knew her, I think she came before an accident review board one time, motor vehicle accident review board.
Q. Now, does -- My understanding is that the department doesn't really monitor the health, if will you, the health status of its police officers as a general rule. And what I mean by that is, for example, other than weight issues, employees are not required to make sure that their heart is in good working order, that their cholesterol is down, or factors which may lead to a terminal disease. Am I correct on

that?
MR. BOYLE: Object to the form.
A. Yeah, that's correct.
Q. Okay. And would you have a -- What would be your best judgment as to how many risk -- I'm sorry, how many fitness-for-duty evaluations you've -- I don't want to use the word overseen, but you've been involved with?
A. Over the last five years, somewhere near around ten.
Q. Ten? Oh, okay. So it is not typical then when somebody is coming back from Family Medical Leave, due to their own serious health conditions, not typical for somebody to get a return to -- a fitness-for-duty evaluation?
A. Only if there's a question of whether or not that they may be fit for duty or not, the injury they had or the condition they had may keep them from doing their job.
Q. Well, who determines whether

there's an issue as to whether they may be fit for duty?
A. If there's a fit for duty, we do an evaluation; for medical conditions we send them to Dr. Turner, okay? And Dr. Turner does an evaluation against the medical records and makes sure they're fit to do their job, based on the job description.
Q. Okay. Now, I've looked at, now, lots and lots of employment files, and it seems as if many, many people have been out on Family Medical Leave, would you agree with that?
A. Yes.
Q. Have you ever been out on Family Medical Leave?
A. No.
Q. Okay. And based on that, if there's only been ten fitness-for-duty evaluations, how many of those would you say -- and I may have asked you this already, are people returning from Family Medical

Leave?
A. That I can't answer. I don't know.
Q. Do you know of any fitness-for-duty evaluations that have been completed on somebody returning from Family Medical Leave --
A. Yes, there were some.
Q. Hang on. -- other than Deputy Stokes?
A. Yes.
Q. Okay. And who was that person?
A. I can't think of the name right now.
Q. Okay. What was the condition that the person had that gave rise to --
A. I can't remember.
Q. Okay. So it sounds like since there have only been ten fitness-for-duty evaluations, would you agree with me that the overwhelming majority of people returning from Family Medical Leave, due to

their own serious health condition, do not receive a fitness-for-duty evaluation?

MR. BOYLE: Object to the form.

A. I can't say that. All I know about is the ones I'm asked to do a fitness-for-duty evaluation on. I say ten or twelve in the last five years.

Q. Let's just stay with the last five years then. All I'm trying to do is -- Okay.

So the ten to twelve fitness-for-duty evaluations, you were asked to do those or was it your decision?

A. No. I was asked to do those. Well, they come to me with the issue, and I say: Well, this is probably one that we need to do a fitness-for-duty evaluation on.

Q. Who brings them to you?

A. Normally the department director or somebody within the department will call me and say, look, we've got this one and this one coming back, you know, do

we need to do a fitness-for-duty evaluation on them? I say what did they do? If their job is physical and they have a heart condition, yeah, we'll send them over to Dr. Turner to make sure that they're able to do the job.

Q. Have you ever had anybody but Ms. Stokes, who was attempting to return to work with depression or any mental illness?

A. We had -- I think there was one gentleman that was evaluated due to some anger issues, some domestic violence issues, that was allowed to return to work after an evaluation by the folks over at EAP.

MS. MATTISON: And I think I may have seen that. Do you have -- Where are the files, Mr. Boyle? Are any of them copied?

MR. BOYLE: I thought y'all were still searching for them.

MS. MATTISON: Oh, we are. We are, but --

MR. BOYLE: They're going to

send them all out at once.

MS. MATTISON: Oh, okay.

MR. BOYLE: I can get them to start pulling and copying, but they didn't want to do it piecemeal, they kind of wanted to get them done all at one time.

MS. MATTISON: Yeah. Okay.

Q. The person who had the domestic -- I'm going to come back to this because we have some notes on this. Let me come back to this.

Okay. Now, with regard to Deputy Stokes, who asked you to complete the fitness-for-duty evaluation of her?

A. I think -- I think that was more a decision that I advised Major Murphy that we should do because of the incident, that she had committed suicide. So I wanted to make sure before she was allowed to go back to work that we did an evaluation of her.

Q. Okay.

A. So that was done by American

Behavioral, at my request.

Q. Okay. And if -- If the department made the decision that her suicide attempt would prevent her from working, returning to her job, I mean, you've just testified that she was terminated because she attempted suicide; fair?

A. To my knowledge.

Q. Yes. Right. I understand.

A. Uh-huh.

Q. That's all I'm trying to figure out. Why bother with a fitness-for-duty evaluation?

A. Well, this was all -- The fitness-for-duty evaluation was a decision that was made prior to all of that coming up.

Q. What do you mean all that coming up?

A. Prior to them deciding that they were going to terminate her due to the suicide. My concern at the time was making

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sure, first, she got the treatment that she needed; and then to make sure that she would be -- that we evaluated her to make sure she was fit to come back to duty before we -- you know, before we let her come back to duty.

Q. Right. But if -- I mean when -- and I'll represent to you that Chief Baylor testified that he would -- I think he testified that he would terminate anybody who attempted suicide. Is that consistent with what you understand the department's practice is?

A. That was afterwards. When I was called and asked and the fit for duty, this all happened the same night the incident occurred. And at that time, that's when I recommended that a fitness-for-duty evaluation be done. I had no idea at that time that they were thinking about terminating her.

Q. Okay. And when did you learn that they were thinking about terminating

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her?

A. This was later. I can't remember the exact date.

Q. Well, just give me a sense, a week later?

A. It probably was a month.

Q. Okay.

A. A month, maybe two months.

Q. Okay. Okay. But I guess -- and maybe this question is better put to Chief Baylor, but I'll represent again that Chief Baylor testified that we would terminate anybody who tried to commit suicide, or words to that effect. I mean, the Record will show what it shows.

A. Uh-huh.

Q. My question is then: Why not just immediately terminate her? Why put her on Family Medical Leave?

A. I can't answer that.

Q. All right. You knew she was on Family Medical Leave; is that right?

A. Yeah. She was put on Family

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Medical Leave from the minute she was getting the treatment and she was going to be evaluated by the EAP.

Q. All right. Okay. So my understanding is, then you were called the night she attempted suicide?

A. Uh-huh.

Q. And you think it was by Colonel Murphy?

A. Uh-huh.

Q. And you were told that Deputy Stokes had attempted to commit suicide and that she was going to the emergency room?

A. Right.

Q. And did Colonel Murphy tell you anything else?

A. Not that I remember. Not at that time.

Q. Okay. And did you tell Colonel Murphy at that -- during that conversation that you recommended that Deputy Stokes get a fitness-for-duty evaluation?

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A. Yes, I believe I did.

Q. All right. Do you remember what his response was?

A. He seemed amicable to it. He didn't say anything else in the negative to me about it. I just told him that's my recommendation, that that's what be done.

Q. Okay. Then what is the next thing you remember happening with Deputy Stokes?

A. The next thing I remember was going to the trial board.

Q. Okay. Would you have seen the evaluation prior to going to the trial board?

A. I think I did. And I turned it -- I had turned it over to the chief's office or to Major Murphy at that time.

Q. Okay. All right. And do you remember having any conversations with Colonel Murphy, any other conversations about Deputy Stokes, other than the conversation you've told me about?

A. No, ma'am.
Q. What about -- Did you have any conversations with Chief Baylor about Deputy Stokes or her situation?
A. Not that I remember.
Q. Okay. How about the mayor's office or the mayor?
A. None with the mayor's office or the mayor.
Q. Okay. And possibly with the legal staff you had conversations?
A. Probably, yeah.
Q. Okay. All right. Your background, educational-wise, what -- do you have a college degree?
A. Yes.
Q. Okay. What's your degree in?
A. I have an undergraduate degree in occupational education; I have a master's degree in human resources; and then I have an educational development specialist degree, with the focus on adult education.
Q. What is that, the last one?

A. The EDS degree?
Q. Uh-huh.
A. It's kind of a degree between a master's degree and a Ph.D. It's educational development, teaching college classes, developing college curriculum, those kinds of things.
Q. So it would be involved in the development of pedagogy?
A. Yeah.
(Off-the-Record discussion was held.)
Q. Pedagogy in any particular subject matter?
A. It's more on adult education with focus on adult education.
Q. Like community college-type work?
A. Yeah. I've really never used that degree for anything in my job.
Q. Where did you get your undergrad?
A. My undergraduate degree is

from Wallen Baptist University in Plainview, Texas.
Q. And how about your master's?
A. Both, the master's and the EDS degree was from Troy Montgomery.
Q. Okay. Where did you work prior to working with the City?
A. Prior to working with the City?
Q. Yeah.
A. I spent about nine months working in the toxicology division of Alabama Reference Lab. And prior to that I had twenty-three years with the Air Force.
Q. All right. And as the risk manager, do you have a job description, a written job description?
A. Yes.
(Whereupon, Plaintiff's Exhibit No. 1 was marked for identification.)
Q. All right. And I'm going to mark this as -- I think actually it's

another deposition. This is going to be Plaintiff's Exhibit 1, and I'll just represent to you this is the job description of the police officer.
A. Okay.
Q. Have you seen this job description before?
A. I've seen a police officer job description before, yes.
Q. All right. Was it your understanding that as a result of Deputy Stokes' suicide attempt, that the department determined that Deputy Stokes was no longer able to perform the duties contained in that job description?
A. I don't know if any reference was ever made by the department to me that she couldn't perform the duties in this job description.
Q. Okay. So you don't know one way or the other?
A. Huh-uh.
Q. You need to say no, sorry.

A. No.

Q. Now, you don't have any evidence that Deputy Stokes couldn't perform the duties in the job description, do you?

A. No, ma'am.

Q. Okay. Did you know that two other doctors also released Deputy Stokes to come back to work?

A. No.

Q. Okay. If you had known that two other doctors also released her to return to work without restrictions, would you have testified at the trial board hearing that she possibly posed a risk?

A. If I had known that, probably.

Q. Well, isn't it true that any of us may possibly pose a risk of attempting suicide?

A. Yes.

Q. And do you know whether the police department's -- I mean, it's conceivable, I guess, that one might attempt to commit suicide and not -- and that fact

not be discovered?

A. I guess that's always possible.

Q. Does the department do anything to screen the mental health of its police officers -- Well, anything to screen the mental health of its police officers?

A. I can't answer that. I don't know.

Q. Nothing that you know of?

A. Nothing that I know of.

Q. Okay. What are your -- What is included in your job duties as a risk manager? You run the drug program, I understand that.

A. I administer the drug program; I run worker's compensation for the City; I handle -- I do the fitness-for-duty evaluations or get those set up for the departments; I also do all the liability insurance, auto liability, general liability, property insurance, law enforcement liability, worker's compensation

insurance, I handle all the insurance matters; I handle all the benefits for City employees, including health benefits, the dental benefits, prescription drugs, mental benefits, substance abuse, the Flex cards, I mean, everything. It's kind of like everything but what personnel does. Personnel does the recruiting, firing, hiring, and that kind of thing, but I handle all the other human resource aspects.

Q. Okay. What do you do with the substance abuse issues?

A. All I do with the substance abuse issues is I manage the drug testing program for the City, I oversee that, and I also administer -- not administer it, I pay the people at Bradford that handle the substance abuse programs for the City.

Q. Okay. And my -- We touched upon this before, my understanding is that if I'm addicted to coke, and I'm a police officer, and you find out that I'm addicted to coke, I test positive on it, that if I go

into a drug program and renounce my intent to continue being addicted to coke, that it is very possible that I will be retained with the police department. Let's assume that I haven't shot somebody on top of it, and let's assume that the only thing that I've done wrong is be addicted to Coke.

MR. BOYLE: Object to the form.

A. That decision is made entirely by the police department -- not police department, by the mayor's office.

Q. I'm not suggesting you make the decision. I'm just asking you that it is conceivable that persons who are addicted to drugs, who are found to be addicted to drugs, are -- they are not necessarily terminated; correct?

A. That is correct. I mean, they're not all the time terminated.

Q. Sure. Okay. And what kind of analysis -- I understand you don't make the decision, but do you occasionally do fitness for duty evaluations of persons who are addicted to drugs and who have undergone some sort of treatment?

A. No. I can't remember -- I don't go out and get a fitness-for-duty evaluation on people that are addicted to drugs or tested positive. That is all done by Bradford and the people at American Behavioral.

Q. Okay. All right. So walk me through just a typical scenario, if you could. Let's say you've got a police officer that tests positive for drugs and decides that they want to go to a rehabilitation -- they want to go to a rehabilitation facility. I'm assuming they would go, not necessarily but probably to Bradford; is that correct?

A. Yeah. That's correct.

Q. Okay. Now, do you oversee having them admitted or getting the paperwork?

A. No. What typically happens is

if anybody tests positive for drugs, no matter what kind of drug it is, a letter is sent to the department director to process the disciplinary action through the mayor's office.

Q. Okay.

A. And it says in that letter that they can either be terminated -- a minimum of termination forty-five days or possible -- not termination, minimum suspension of forty-five days, or possible termination.

Q. Okay.

A. That decision is made solely up at the mayor' office.

Q. Okay. Then would the person go into Bradford, stay the prerequisite period of time --

A. They would be evaluated. If they were not terminated and the decision was allowed to let them be suspended for the forty-five days, they are evaluated, if I remember correctly, by the counselors at

American Behavioral, first.

Q. Yes.

A. And then they make a decision whether or not they need to continue and go on to Bradford. Normally they always send them to Bradford. And they're evaluated there and they're either put in an outpatient or an inpatient program or combination of both, depending on what the people up there think they need.

Q. All right. Roughly how many people a year go to Bradford?

MR. BOYLE: Object to the form.

A. I can't even begin to answer that, I don't know.

Q. I mean from the City.

A. Uh-huh.

Q. You don't know?

A. I don't know. I can tell you this: We have a contract with Bradford that allows so many outpatient admits a year under a set price.

Q. Okay.

A. And that contract, I believe it's sixteen admits into an inpatient program a year, and last year we actually got money back because we didn't use up the sixteen.

Q. Okay. Have you ever exceeded the sixteen?

A. I think we did a couple of years ago.

Q. Okay. All right. Now, do you -- If there is a domestic abuse -- I've seen some of the files and occasionally there appear to be not just allegations of domestic abuse, but fighting, et cetera, with police officers, either fighting with their family members, not their spouses, or people in the public.

Do you have anything to do with whether there is a fitness for duty for somebody that may engage in fighting or other sort of disciplinary actions?

A. No. The only one I've done, I

had one person they were called in, they were having some anger management issues with the ex-wife, the ex-wife had made some, I think, allegations, if you will, so we did a -- we felt that it was due diligence to go ahead and send this guy in and have him evaluated.
Q. What were the allegations of the wife, just generally?
A. They said he had threatened her.
Q. And so that person was found fit for duty?
A. Yes.
Q. All right. My understanding is, I know that officially the mayor's office makes decisions regarding termination, is that your understanding? And I think you've testified to that.
A. Uh-huh.
Q. In this particular case, do you know whether there was anybody, either Colonel Murphy or the chief of police, who

felt that Deputy Stokes should have been terminated?
A. I don't know.
Q. Okay. Do you remember any other conversations with any other employee of the City, regarding the termination of Deputy Stokes?
A. No.
Q. Do you have to -- In your job, do you have to know the law surrounding, like, the Americans with Disabilities Act or the Family Medical Leave Act?
A. For legal advice, I go see them. I have a general understanding of the laws, but if it's something I don't understand, I go to the legal office.
Q. Okay. Did you know that it is a -- or it can be seen as a violation of the Family Medical Leave Act to terminate somebody for having a serious health condition?
MR. BOYLE: Object to the form.

A. No.
Q. Okay. Did you understand that Deputy Stokes' attempted suicide met the condition of a serious health condition under the Family Medical Leave Act?
A. No.
Q. Okay. Do you know who is covered by the Family Medical Leave Act, other than people who -- and you may not know this, but other than people who are having babies?
A. Anybody that has a serious health condition or has a family -- immediate family member that's having a health problem. And now they've even opened up to service members families when they come back from Iraq and Afghanistan with issues.
Q. As they should.
A. Uh-huh.
Q. Do you know what the definition of serious health condition is?
A. No.

Q. Okay. Do you remember any discussion regarding the legalities of terminating Deputy Stokes?
A. No.
Q. Were you surprised that a decision was made to terminate her?
A. No. I'm never surprised by anything, not in this job.
Q. Okay. I'm going to show you something.
MS. MATTISON: And we don't have copies of it, and so this will be the first time you're seeing it also.
(Whereupon, Plaintiff's Exhibit No. 2 was marked for identification.)
Q. This is from subpoenaed records from American Behavioral. I'll show you Plaintiff's Exhibit 2. Have you ever seen that document before?
A. Yes.
Q. You have. And how did you see that document? Explain the circumstances.

A. Wait a minute. This is a letter to Dr. Schaefer. I don't know if I've seen this document or not.
But the statement up there on the top is true, and I did do that.
Q. Okay.
(Off-the-Record discussion was held.)
(Whereupon, Plaintiff's Exhibit No. 3 was marked for identification.)
Q. This is Plaintiff's Exhibit 3, and this is, as I understand it, the fitness-for-duty evaluation. And I'll ask you if you've ever seen this.
A. Yeah. I remember seeing this.
Q. Okay. Now, you don't have any evidence that the statements in that letter are not true, do you?
A. No.
Q. Okay. Let me show you and see if this jogs your memory. I will represent that this is a case note from Linda

Holmberg, and that's spelled H-O-L-M-B-E-R-G, regarding a conversation Ms. Holmberg had with you.
If you would look at the last entry, if you would.
MR. BOYLE: This one down here (indicating)?
MS. MATTISON: Yes.
(Plaintiff's Exhibit 4 was marked for identification purposes.)
Q. That's dated February 3, 2006. See if that jogs your memory.
MR. BOYLE: Object to the form, but you can answer.
A. I think this was after the trial board. I don't remember.
Q. Do you remember -- Does that jog your memory about speaking with Ms. Holmberg?
A. Yes, it does.
Q. All right. Do you have any reason to think that she has

mischaracterized your conversation?
A. No, she didn't mischaracterize me.
Q. Okay. All right.
And when you told Ms. Holmberg that -- I keep wanting to call her detective, that Deputy Stokes was going to lose her job, how had you heard of that? Who had told you that?
A. I don't remember. I don't remember.
Q. Okay. So is it fair to say that it would have either been Colonel Murphy, the legal department -- you didn't talk to the mayor; is that fair to say?
A. Yeah, I did not talk to the mayor.
Q. Okay. Did you talk to the chief? Maybe, maybe not?
A. I can't remember if I talked to the chief or not. I don't remember having any conversations with the chief on this at all.

Q. Okay. All right. So you heard that either -- it sounds like either from the legal office or from Colonel Murphy?
A. Major Murphy at the time.
Q. Major Murphy.
A. Yes, that's probably true.
(Whereupon, Plaintiff's Exhibit No. 5 was marked for identification.)
Q. All right. I'm going to ask you if this further jogs your memory. This is Plaintiff's Exhibit 5. You've seen that before?
A. Isn't that the one?
Q. No. There's two different letters. This is the fitness for duty, and this is another letter.
Go ahead and read this letter. I think it will make it clearer to you.
A. (Witness complies.)
Q. Actually, I'm sorry, sir, what date is that?

A. This one is the 27th and this one is the 28th (indicating).
Q. Right.
A. Yeah, I remember this now.
Q. Okay. Tell me what you remember of it.
A. They're talking to Linda Holmberg. But I can't remember who told me she was going to lose her job. I would probably say it was Major Murphy.
(Whereupon, Plaintiff's Exhibit No. 6 was marked for identification.)
Q. Okay. All right. Let me ask you whether you've ever seen this document. I'll show you Plaintiff's Exhibit 6 and ask if you've had the opportunity to see that? Just take your time.
It's by a different -- It's by her doctor -- I'm sorry, it's not by her doctor. It was the one she was sent to.
A. Uh-huh. This would have been probably Dr. Schaefer.

Q. Yes.
(Off-the-Record discussion was held.)
A. Yeah. I think I remember this because Linda refers to this in her letter.
Q. Just so we're clear, you remember Plaintiff's Exhibit 6 and Plaintiff's Exhibit 5 --
A. She refers to the letter.
(Whereupon, Plaintiff's Exhibit No. 7 was marked for identification.)
Q. And just for completion, I believe that Plaintiff's Exhibit 7 is identical to Plaintiff's Exhibit 3, with the exception that Plaintiff's Exhibit 7 is on letterhead?
A. Yeah.
Q. All right. Now, any evidence that the material or the information contained in Plaintiff's Exhibit 6 is incorrect?
A. No.

Q. Okay. Did you ever -- Do you know whether Colonel Murphy -- Strike that.
Was it your understanding that Colonel Murphy considered Deputy Stokes unstable?
A. I can't remember having a conversation with him to that effect about Deputy Stokes.
Q. Okay. But even though you may not remember a specific conversation, do you have a sense of whether Colonel Murphy thought that --
A. I can't answer that. I don't know.
Q. Okay. Let me get the whole question out before you're saying you can't answer it.
A. I'm sorry.
Q. Whether Deputy Stokes was unstable or might be unstable?
MR. BOYLE: Object to the form.
A. I can't answer that. I don't

know.
Q. Okay. So your understanding of the reason that the City decided to terminate her due to her suicide attempt, was because it might be illegal, the suicide attempt might be illegal?
A. Yes.
Q. Any other reason?
A. No.
Q. Okay. Do you know whether the department took your testimony at the trial board into consideration?
A. I can't say that because I wasn't in the room when they did their thing and talked about it and then made their decision.
Q. Okay. Are you sure you left?
A. Yes. Before the decision was made? Yes. I was called in to testify, I testified, and then I got up and walked out.
Q. Okay. Now, did you understand that Deputy Stokes was protesting the City's desire to dismiss her?

FREEDOM COURT REPORTING

A. That was my understanding.
Q. Okay. And what -- Did you understand -- Did you hear Deputy Stokes' testimony at the trial board?
A. I don't think I did.
Q. Okay. How did you understand that Deputy Stokes was -- What did you understand Deputy Stokes' position to be with regard to whether she should be terminated?
A. I didn't know what her position was. I knew she was appealing the whole process.
Q. Okay. Do you know how the mayor makes determinations as to whether to terminate somebody?
A. I can't answer that question. I don't know.
Q. Okay. Has the mayor, personally, ever consulted you as to whether to terminate somebody?
A. No.
Q. Okay. Did you have any

evidence that prior to her attempted suicide, that Deputy Stokes did not perform her job well?
A. No, I didn't have any evidence to that. I wouldn't have been privy to any of that kind of evidence anyway.
Q. Okay. Did anybody speak with you about Deputy Stokes' depression or her mental health?
A. Not other than these folks right here (indicating).
Q. And that's the exhibits?
A. Uh-huh.
Q. You need to say yes. I'm sorry.
A. I'm sorry, yes.
Q. Okay. And what do you understand was the health condition that Deputy Stokes had, after reading those documents?
A. After reading this, she had depression and a lot of it was due to sleep deprivation.

Q. All right. So when you received those letters from American Behavior or Dr. Schaefer, that's when you understood that Deputy Stokes had a mental health condition?
A. Uh-huh.
Q. I'm sorry, yes?
A. Yes. Yes.
Q. I may have asked you this before, and if I did, I apologize. You don't have any medical background yourself?
A. No, I don't.
Q. Okay. Were there any rumors about -- that you heard -- I mean, you're not going to know what you don't hear, but was there any rumors about Deputy Stokes' condition or whether she would be stable?
MR. BOYLE: Object to the form.
A. I didn't hear anything.
Q. Do you know of anybody else who worked for the City, who ever attempted suicide?

A. No, I don't.
Q. Do you know anybody who worked for the City who was ever institutionalized or placed in a psychiatric hospital?
A. No, I don't.
Q. Do you know whether the department --
A. I take it back. We have a worker's comp guy that was institutionalized, but that was because of a blow to the head, and that was just recently.
Q. At a psych hospital, he was institutionalized?
A. Yes.
Q. Does he have traumatic brain injury; is that --
A. He has brain injury, yes.
Q. Okay. So as I understand your testimony, you had your conversation with Colonel Murphy, you now remember a conversation that you had with Linda Holmberg, and the next thing you -- I'm

sorry, let me restate that. You had, initially, a conversation with Colonel Murphy on the same night that Deputy Stokes attempted suicide; you then learned from somebody that Deputy Stokes was going to be terminated and had -- and conveyed that to Linda Holmberg; and then the next thing you remember is testifying at the trial board?
A. That's correct.
Q. Can you testify to any other -- do you have any other memory of what -- of the circumstances?
A. No.
(Off-the-Record discussion was held.)
Q. Do you have anything to do with the granting or the monitoring of Family Medical Leave?
A. The only thing I have to do with it is when they come through -- you know, we do the fitness-for-duty evaluations.
Q. Yeah.

A. And when they do the -- Come in to tell me they're going on Family Medical Leave, or they come to tell us, we have a package that we do that talks about their benefits and how their benefits will be handled while they're on Family Medical Leave.
Q. Okay. Did you play any part in Deputy Stokes' Family Medical Leave, in the package?
A. No, I didn't play any part in her package in general. You know, that would go through my staff.
(Whereupon, Plaintiff's Exhibit No. 8 was marked for identification.)
Q. Okay. So -- Let's see if I can do this. Okay. So Plaintiff's Exhibit 8, would that have -- this indicates that Deputy Stokes was on leave from December 19th, which I'll represent was the day that she attempted suicide, until January 12th.
Would this file -- Would this

document have come through your office?
A. The only part that would come through my office, I think there's some attaching documents that talks about this item 5-A --
Q. Yes.
A. -- about insurance.
Q. I see.
A. That's under my staff.
Q. Okay. All right. Fair enough.
Now, do you know when January 12th, which is the day that her Family Medical Leave was to expire, do you know where Deputy Stokes was assigned or what duty she was given?
A. No, I don't.
Q. Do you know whether she actually returned to work?
A. No, I don't.
Q. Do you know whether Deputy Stokes was placed on administrative leave?
A. I can't tell you. I don't

know.
Q. Do you know anything about her status after the Family Medical Leave expired --
A. No.
Q. -- other than the fact that she was terminated?
A. No.
MR. BOYLE: Let her finish the question before you answer.
Q. Okay. Were you interviewed at all by Sergeant Bolton about Deputy Stokes?
A. I can't remember if I was or not.
Q. Okay. If you were, you just don't remember it?
A. Uh-huh.
Q. I'm sorry, you need to say yes.
A. Yes. I wouldn't -- I mean, I don't know if I was interviewed by him or not.
Q. Okay. When you got the

fitness-for-duty evaluation, when you received a copy of it, what did you do with it?
A. I think I turned it over to Colonel Murphy.
Q. Okay. Are you assuming that you did that or do you remember one way or the other?
A. I don't remember, but I'm assuming that's what I would have done.
Q. Okay. Do you remember what Deputy Stokes was charged with?
A. Huh-uh.
Q. I'm sorry, you need to say yes or no.
A. No, I don't. I don't remember.
Q. Okay. Do you know of any officer who has successfully gone through a treatment program, for drugs or alcohol, who was discharged?
A. I don't know either way. No, I don't.

(Whereupon, Plaintiff's Exhibit No. 9 was marked for identification.)
Q. I'll ask you if you have seen this document, Plaintiff's Exhibit 9?
A. I don't remember seeing this one.
(Whereupon, Plaintiff's Exhibit No. 10 was marked for identification.)
Q. Okay. I'll show you Plaintiff's Exhibit 10.
A. Nope, I have not seen this.
Q. You haven't?
A. No, I have not.
Q. All right. Well, the first paragraph -- I'm sorry, the first testimony or statement by Mitchell, the chairperson, is -- it appears as if -- all right.
Looks like you weren't there in the beginning of the --
A. Uh-huh.
Q. All right. You testified at

this farther in, did you not?
A. Yes, ma'am.
Q. It begins -- I think your testimony begins on page eight.
MS. MATTISON: Let's take a five-minute break, if we can.
MR. BOYLE: Sure.
(Recess taken.)
Q. Would you look at page eight, please. It indicates -- Actually page nine. That after -- That you also spoke -- about two-thirds of the way down, that you also talked to Kathy Jones. It says -- I'm right here (indicating).
A. Yeah.
Q. Once I found out the details, I called up -- You've known her for twelve years?
A. Kathy Bolen Jones.
Q. Yeah. Does that refresh your memory about another action that you may have taken?
A. Huh-uh.

Q. No, it doesn't?
A. No, it doesn't.
Q. Okay. On the last part of the page, last entry for you it says: What I did was I instructed Ms. Jones to do whatever she needed to do to get her in treatment --
A. Uh-huh.
Q. -- and at some point in the future we would address whether she was going to be fit for duty or not.
A. Right.
Q. Do you remember talking with Ms. Jones about that?
A. Yeah, I remember talking about that now, yes.
Q. The fitness for duty was done, obviously, after she was released from the hospital?
A. Right.
Q. And then you also testified that you had concerns, I'm on page ten, about liability?

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A. Uh-huh.
Q. I'm sorry, you need to say yes.
A. Yes. Yes.
Q. Now, am I understanding your testimony now that -- Well, strike that.
Do you know whether anybody else -- Well, did anybody else at -- at the City talk with you about any concerns that they may have had regarding liability?
MR. BOYLE: Object to the form.
A. Not to my knowledge.
Q. Okay. What were your concerns about liability?
A. As a risk manager, I was concerned about liability if something happened out on the streets that was involving Candida Stokes, that it would present a liability to the City because of the history she had.
Q. Okay. Why would -- Strike that.

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But you didn't have any evidence that she was a risk or a liability concern?
A. No, ma'am.
Q. No medical evidence?
A. No, ma'am.
Q. Are you aware that under the federal law, decisions regarding a person's ability to work have to be made on objective medical evidence?
MR. BOYLE: Object to the form.
A. No, I'm not.
Q. Okay. And then -- Okay. You indicate down here, halfway down the page, that if you didn't have concerns about liability, you would not have forwarded her for a fitness-for-duty evaluation.
A. Uh-huh.
Q. I'm sorry?
A. Yes. Yes. I'm sorry.
Q. Again, I guess what I have to ask you, is why bother to forward her for a

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fitness for duty -- Well, strike that.
Does the medical information that you received alleviate your concerns about liability?
A. Yes.
Q. Okay. All right.
Now, on the top of page eleven, it looks like you advised -- maybe this is just taken out of context. See your uh-huhs, we don't know what they are.
A. Yes, ma'am.
Q. You're asked by West whether -- it says: Yes. Mr. Carnell, you referred to advising her to seek treatment, referring her to treatment, and then you say either uh-huh or huh-uh.
Did you advise Deputy Stokes to receive treatment?
A. No. I can't remember advising her to seek any treatment.
Q. All right. Halfway down page eleven, it indicates that the fitness-for-duty evaluation had been

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submitted to the department. And you indicate then that you thought it was sent to the chief's office.
What do you base that on?
A. Well, I mean, I base it on I would have sent it through the chief's office. Anything I get to do with the police department would go through the chief's office.
Q. Okay. All right. Do you currently have any liability concerns regarding -- Do you currently have any evidence -- Let me ask it this way, that Deputy Stokes would have a liability if she were brought back to the department?
A. No, I don't.
MS. MATTISON: I don't think I have anything else for this witness. Thank you for coming.

EXAMINATION

BY Mr. BOYLE:
Q. Just two quick follow-ups. On fitness for duty, is that limited just to

fire -- or public safety employees?
A. No, it's not.
Q. Is that for city-wide?
A. City-wide.
Q. And when a person is injured on the job, you don't have to request a fitness for duty; is that correct?
MS. MATTISON: Objection. Leading.
A. No, I don't.
Q. Is that done by Dr. Turner?
MS. MATTISON: Objection. Leading.
A. Whoever the treating physician is.
Q. In this case, when you requested a fitness for duty on then corporal, now Deputy Stokes, was that based on a request from the department?
A. I can't remember if -- I believe it was. I believe it was.
Q. Do all department requests have to come through you to get a fitness

for duty?
A. They do.
MR. BOYLE: That's the only thing I wanted to clear up.
EXAMINATION CONTINUED
BY MS. MATTISON:
Q. So is it your testimony that had Deputy Stokes attempted to commit suicide while on the clock, so to speak, that she would not have had a fitness for duty?
A. No, that's not what I mean. I think because of the attempted suicide, a fitness for duty would have been done anyway, in that case. I've never had that happen before.
Q. So there is some discretion in terms of when to seek a fitness for duty?
A. Yes.
MS. MATTISON: That's it.
MR. BOYLE: I'm done.
(The deposition was concluded at 11:28 a.m., June 30, 2008.)

REPORTER'S CERTIFICATE

STATE OF ALABAMA,
MONTGOMERY COUNTY,

I, Angela Smith McGalliard, Registered Professional Reporter and Commissioner for the State of Alabama at Large, do hereby certify that the above and foregoing proceeding was taken down by me by stenographic means, and that the content herein was produced in transcript form by computer aid under my supervision, and that the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings occurring on said date and at said time.

I further certify that I am neither of kin nor of counsel to the parties to the action; nor in any manner interested in the result of said case.

Angela Smith
McGalliard, RPR, CRR,
CCR Lic. No. 98

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written 39:17
wrong 44:7

X

X 3:2

Y

yeah 8:7,14 17:5 17:21 18:5 20:12,14 24:23 26:4 30:4 31:7 34:23 37:12 38:10,19 39:10 45:19 53:16 55:16 57:4 58:4,18 65:23 71:15,20 72:15
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EXHIBIT 5

File

FORM 50 PER

REQUEST FOR FAMILY AND MEDICAL LEAVE OF ABSENCE

Employees who have worked for at least 1,250 hours during th 12-month period immediately prior to the request for leav eligible for leave.

Name: Candida L. Stokes Employee Number: 1279

Department: Police Hire Date: 02-15-2002

TYPE OF LEAVE REQUESTED

(check one box)

☒ Employee Medical Leave of Absence
☐ Extension of Employee Medical Leave of Absenc
Dates of prior approved Medical Leave are:

_______________ to _______________

☐ Family Medical Leave of Absence
☐ Extension of Family Medical Leave of Absence
Dates of prior approved Family Medical Leave

_______________ to _______________

☐ Leave to care for newborn or adopted child pl (via state procedures) for foster care

The Leave (or extension) requested will begin on 12.19.05 and end on 1.12.06. If the request is for multiple off for recurring medical treatments of a child, parent, or sp or for your own medical treatments, specify dates requested:

____

REASON FOR LEAVE

I request a family leave of absence for the following reason:

(Check one box)

☒ My personal serious health conditions
☐ Birth of my child
☐ Adoption of a child by me
☐ Placement (by the state) of a child with me f foster care
☐ Serious health condition of my child
☐ Serious health condition of my parent
☐ Serious health condition of my spouse

Candida Stokes
EMPLOYEE SIGNATURE

FORM 51 PER

✓ A. Leave for the employee

1. A statement of medical necessity for my intermittent leave or reduced leave schedule a the expected duration of my schedule.

2. A listing of the dates of my planned medical treatment and the duration of the treatment(s)

_____ B. Leave to care for a son, daughter, spouse or parent wh seriously ill.

1. A statement attesting to the necessity for intermittent leave or reduced leave for me to provide care or to assist in their recovery.

2. An estimate of the expected duration and sche of my intermittent reduced leave.

I certify by my signature that I have read and understand Organization's certification policy.

Date: 1-10-2006 Name(Print) Candida L. Stokes

Employee Number: 1279 Name(Sign) [signature]

FORM 31 PER

Leave Certification Requirements

(Check as appropriate)

SECTION I

______ To request leave for the care of a child, parent, or spou with a serious health condition.

I have attached a certification from the health care provider who is treating my child, parent, or spouse. The certification includes the following:

1. The date on which the condition commenced
2. The probable duration of the condition
3. The appropriate medical facts within the knowled of the health care provider regarding the conditi
4. An estimate of the time needed to care for the individual involved (including any recurring medical treatment)
5. A statement that the condition warrants my participation to provide care.

SECTION II

__✓__ To request leave for the care of any employee's personal serious health condition. The certification includes the following:

I have attached certification from the health care provider who is treating my own serious health conditio: The certification includes the following:

1. The date on which my condition commenced
2. The probable duration of my condition
3. The appropriate medical facts within the knowled of the heath care provider regarding my conditio:
4. A statement that am I unable to perform the functions of my position due to my condition

SECTION III

______ Additional certification requirements for intermittent lea or for leave on a reduced leave schedule

In addition to the foregoing certifications from the health care provider involved, I have attached additional information from the health care provider stipulated below:

B0536300595 STOKES,CANDIDA S
DOB: 01/03/72 Age:33Y MR #:369695
Admit Date/Time: 12/29/05 1529P
255 HARWOOD,DAVID D

A **"Serious Health Condition"** means an illness, injury impairment, or physical or mental condition that involves one of the following:

1. Hospital Care

Inpatient care (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity[2] or subsequent treatment in connection with or consequent to such inpatient care.

2. Absence Plus Treatment

(a) A period of incapacity[2] of **more than three consecutive calendar days** (including any subsequent treatment or period of incapacity[2] relating to the same condition), that also involves:

(1) **Treatment**[3] **two or more times** by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(2) **Treatment** by a health care provider **on at least one occasion** which results in a **regimen of continuing treatment**[4] under the supervision of the health care provider.

3. Pregnancy

Any period of incapacity due to **pregnancy**, or for **prenatal care.**

4. Chronic Conditions Requiring Treatments

A chronic condition which:

(1) Requires **periodic visits** for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(2) Continues over an **extended period of time** (including recurring episodes of a single underlying condition); and

(3) May cause **episodic** rather than a continuing period of incapacity[2] (e.g., asthma, diabetes, epilepsy, etc.).

5. Permanent/Long-term Conditions Requiring Supervision

A period of **Incapacity**[2] which is **permanent or long-term** due to a condition for which treatment may not be effective. The employee or family member must be **under the continuing supervision of, but need not be receivi[ng] active treatment by, a health care provider.** Examples include Alzheimer's, a severe stroke, or the terminal stage[s of] a disease.

---

3 Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

4 A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

c. If a regimen of continuing treatment by the patient is required under your supervision, provide description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

Suicide attempt with hospital stay and partial hosp. treatment.

7.a. If medical leave is required for the employee's absence from work because of the employee's c condition (including absences due to pregnancy or a chronic condition), is the employee unable to pe work of any kind? Yes

b. If able to perform some work, is the employee unable to perform any one or more of the essen functions of the employee's job (the employee or the employer should supply you with information at essential job functions)?______ If yes, please list the essential functions the employee is unable to pert

N/A

c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatmen

____

8.a. If leave is required to care for a family member of the employee with a serious health condition, the patient require assistance for basic medical or personal needs or safety, or for transportation?____

NA

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patie assist in the patient's recovery?________

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probab duration of this need:

[signature] MD
(Signature of Health Care Provider)

psychiatry
(Type of Practice)

2014 Normandie Dr
(Address)

288-9009
(Telephone number)

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

____
(Employee Signature)

____
(Date)

6. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive **multiple treatments** (including any period of recovery therefrom) by a heal care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for **restorative surgery** after an accident or other injury, or for a condition that **would likely result in a period of incapacity**[2] **of more than three consecutive calendar days in the absence of medi intervention or treatment**, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy) kidney disease (dialysis).

EXHIBIT 6

Form 10

Submit in Triplicate

CITY AND COUNTY OF MONTGOMERY
PERSONNEL DEPARTMENT
RECOMMENDATION FOR PERSONNEL ACTION

Department/Division Police **Date** January 18, 2006

Name of Employee Candida L. Stokes **Effective Date** 12/19/05

Social Security # 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 **Classification** Police Corporal **Job Code** 8211

Item 2 requires the signature of both department heads.

Items 2, 3, 4, 5, 6, 15 require approval of Personnel Director before action is official. Items 3, 4, 5, 7 must have copy of letter to employee attached. Item 8 should have copy of letter of resignation.

1. Transfer within department ( )	9. Retirement ( )
2. Transfer to another department ( )	10. Separation by death ( )
3. Demotion ( )	11. Expiration by Temporary Appointment ( )
4. Layoff ( )	12. Return Leave Without Pay ( )
5. Dismissal ( )	13. Return from Military Leave ( )
6. Leave without pay ( )	14. Change of Name ( )
7. Suspension ( )	15. Change in Salary ( )
8. Resignation ( )	16. FMLA (X)

ITEMS AFFECTED BY ACTION	FROM	TO
Department (Items 1 & 2)		
Class. & Salary (Items 1, 2, 3)		
Dates (Items 6 & 7)		
Name (Item 14)	N 10 -	K 7
Amount (Item 15)		
Other (Item 16)	Period of FMLA: December 19, 2005 - January 12, 2006	

Funds are available [signature] Disbursing Officer Date JAN 20 2006

Explanation and remarks (Give reason for any action which is not self-explanatory)

Employee placed on FMLA due to personal illness. FMLA package attached.

(Signed) 1. [signature: Bobby N. Bright] Appointing Authority Date JAN 24 2006

2. Date

3. [signature] Date 01/18/06

4. [signature: Barbara M. Montoya] Personnel Director Date JAN 26 2006

PER 300-419
04/14/99

EXHIBIT 7

Form 10 **Submit in Triplicate**

CITY AND COUNTY OF MONTGOMERY
PERSONNEL DEPARTMENT
RECOMMENDATION FOR PERSONNEL ACTION

Department/Division Police **Date** January 26, 2006

Name of Employee Candida S. Stokes **Effective Date** January 13, 2006

Social Security # 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 **Classification** Police Corporal **Job Code** 8211

Item 2 requires the signature of both department heads.
Items 2, 3, 4, 5, 6, 15 require approval of Personnel Director before action is official. Items 3, 4, 5, 7 must have copy of letter to employee attached. Item 8 should have copy of letter of resignation.

1. Transfer within department .... ( )
2. Transfer to another department .... ( )
3. Demotion .... ( )
4. Layoff .... ( )
5. Dismissal .... ( )
6. Leave without pay .... ( )
7. Suspension .... ( )
8. Resignation .... ( )
9. Retirement .... ( )
10. Separation by death .... ( )
11. Expiration by Temporary Appointment........ ( )
12. Return Leave Without Pay............................ ( )
13. Return from Military Leave........................... ( )
14. Change of Name .... ( )
15. Change in Salary .... ( )
16. Administrative Leave With Pay...........(X)

ITEMS AFFECTED BY ACTION	FROM	TO
Department (Items 1 & 2)		
Class. & Salary (Items 1, 2, 3)		
Dates (Items 6 & 7)		
Name (Item 14)		
Amount (Item 15)		
Other (Item 16)	January 13, 2006	January 24, 2006

Funds are available ______________ Disbursing Officer **Date** JAN 30 2006

Explanation and remarks (Give reason for any action which is not self-explanatory)
Employee placed on Administrative Leave With Pay pending psychological evaluation.

(Signed) 1. ______________ Appointing Authority Date JAN 27 2006

2. ______________ Date

3. ______________ Date 1-26-2006

4. ______________ Personnel Director Date JAN 31 2006

PER 300-419
04/14/99

EXHIBIT 8

American Behavioral

TO: Whom It May Concern

DATE: February 28, 2006

FROM: Linda Holmberg, LPC
American Behavioral

RE: Candida Stokes, 1/3/72, 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

The purpose of this memo is to advise that my professional opinion is that Candida Stokes is fit for duty as a police officer with the Montgomery Police Department. I have had the occasion to read Dr. Schaffer's letter of recommendation and so will not go into the amount of detail he alluded to.

Candida began counseling with Cathy Boland Jones approximately 3 years on and off prior to her suicide attempt. Her daughter was counseled by Sharon Bell as well. Since her suicide attempt she has continued counseling on a weekly basis. I have experienced her as being honest with her thoughts and feelings which have been consistent with her affect. She has displayed positive behavioral changes as well as a desire to learn better coping skills. The stresses she had been under including personal relationships, the death of her mother, the Christmas season and sleep deprivation all played a part in her spiraling further into depression which culminated in her suicide attempt.

Candida is now more clear-minded and goal oriented. She denies any suicidal ideation. I do not feel she is a threat to herself or others. I trust her judgment and feel secure in her personal insight.

550 Montgomery Highway, Suite 300
Birmingham, Alabama 35216
(205) 871-7814
Fax (205) 868-9600
www.americanbehavioral.com

I would like to take this opportunity to clarify what I believe to be a miscommunication that occurred regarding Candida Stokes. I had a telephone conversation on February 3rd with John Carnell regarding my concern for Candida's reaction to the possibility that she could lose her job. I realize now that I may have miscommunicated that I believed Candida was mentally unstable on that day. That was not the case. I had seen Candida for a limited amount of time and I did not know how she might react to the possible news of the loss of her job. I am ethically responsible for my client as a Licensed Professional Counselor and felt the need to assure her safety. I apologize for any misunderstanding or inconvenience this may have caused the department.

In summation, I reiterate my opinion that I believe Candida Stokes to be fit for any and all duties as a police officer. However, I would like to suggest that you consider another shift due to the sleep deprivation is causes Candida as a single mother.

If I can be of any further service, please do not hesitate to give me a call at 396-9323.

EXHIBIT 9

#4

Park Place Psychiatry, LLC
Park Place Center
7051 Fain Park Drive, Suite 117
Montgomery, AL 36117
Ofc: (334) 215-7308 Fax: (334) 215-4427

David D. Schaffer, D.O., Ph.D. ***Judy Heinzman, R.N., C., L.P.C.***

January 20, 2006

John Carnell
Risk Management
City of Montgomery

RE: Fitness for Duty Evaluation of Candida Stokes

Dear Mr. Carnell:

On December 19, 2005, Candida Stokes (DOB 01/03/72; SS# 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) attempted suicide. John Carnell of Risk Management for the City of Montgomery requested that I perform a fitness-for-duty evaluation on Ms. Stokes.

Ms. Stokes arrived on time for her evaluation. She was well groomed, appropriately dressed, and appeared to be in good health. She was cooperative with the evaluation and forthright in her reporting of her suicide attempt. She maintained good eye contact. Her speech was of regular rate, rhythm, volume, and inflection. She was understandably worried about the fate of her job but remained calm and collected. She admitted being anxious about keeping her job but otherwise reported that her mood was stable and she was not feeling depressed. The affect I observed in her was congruent with her reported mood. It was of normal breadth and was appropriate. She was alert and fully oriented. Her thought process was logical and goal directed. She denied having thoughts of harming herself or others. I felt her judgement and insight were good.

She told me that she took 150 tablets of Tylenol-PM. As a police officer she was well aware that this was a lethal dose of Tylenol if not treated. Her attempt failed because a friend went to her house and found her in time to get her the emergency medical treatment she needed. She was taken to Baptist Hospital's emergency room and then admitted to it's intensive care unit where she spent five days. She was transferred from the intensive care unit to the inpatient unit of Baptist Hospital's Meadhaven Psychiatric facility where she spent an additional two days under the care of Dr. Harwood. He discharged her from Meadhaven's inpatient unit and admitted her to Meadhaven's Partial Hospital Program. Dr. Harwood discharged her from the partial hospital program after she had attended for ten days. Since then she has been seeing Linda Holmberg for counseling.

Based on my fitness for duty evaluation of Ms. Stokes and my prior knowledge of her as a patient, it is my professional opinion that she is fit to return to duty. I based my opinion on a review of the stresses she was under at the time of her suicide attempt and her ability to cope since then.

At the time of her suicide attempt Ms. Stokes was under extreme stress. She went through the stress of a divorce a couple of years ago. A little over six month before her overdose, on May 29, 2005, her mother passed away. Her mother's death coupled with the responsibilities of being a single mother put her under a great deal of stress. She lacks any family members to provide her with support. The only close relative she has is a sister who is not of any help. She has a thirteen year old daughter that she is raising by herself. Tremendous demands were made on her as she strove to holding down a full-time job and raising a daughter without any help.

A very important consideration at the time of her overdose was the chronic sleep deprivation she was experiencing. She reported that she had gone from third shift to first shift, then second shift, and finally back to third shift. Third shift starts at 10:00 PM and lasts until 7:00 AM. She would get off her shift and return home just in time to take her daughter to school. She would return home and attempt to get some sleep before it was time to pick her daughter up from school. She would then attempt to get some additional sleep. In general, she had a short period of time in which to get her sleep and even that time was sporadic. She spent the last part of the day before returning to work cooking dinner and caring for her daughter. At the time of her suicide attempt she was chronically sleep deprived, exhausted, and overwhelmed.

When I evaluated Ms. Stokes she had over two months to consider the factors and stressors that lead up to her overdose. I asked her why she felt she was not at risk of making another suicide attempt. She indicated that during tis period of time she gained a better understanding of herself and her problems. She firmly believes she learned valuable coping skills from the therapy she received during this period. She learned through therapy ways to better manage her time. She has had time to consider the impact that her suicide would have had on her daughter. Ms. Stokes currently remains in therapy. In spite of the seriousness of her overdose, I feel she is mentally and emotionally fit to return to her duties as a police officer. I strongly believe that chronic sleep deprivation and both mental and physical exhaustion were major factors leading to her attempted suicide.

Once again, it is my professional opinion that she is fit to all duties as a police officer. Please call me if you have any further questions. We do not discuss patients without prior authorization; therefore, please be sure to identify yourself and indicate you wish to speak to me regarding Ms. Stokes.

Sincerely,

David D. Schaffer, D.O., Ph.D.

David D. Schaffer, D.O., Ph.D.
Psychiatrist and Medical Director

EXHIBIT 10

MEMORANDUM

TO : Chief A. D. Baylor

FROM : Major K. J. Murphy

DATE : January 24, 2006

SUBJECT : **Administrative Leave with Pay**
Corporal C. S. Stokes,#1279

I respectfully request that Corporal C. S. Stokes, ID 1279, be placed on Administrative Leave with Pay beginning Friday, January 13, 2006 until January 24, 2006.

Also, beginning Wednesday, January 25, 2006, I request that Corporal Stokes be place on Administrative Duties.

KJM/lb

Form 10
1-26-06

EXHIBIT 11

Cunnye

MEMORANDUM

Div. File

To: Colonel A. D. Baylor

From: Major K. J. Murphy JM

Subject: Duty Status of Corporal C. S. Stokes #1279

Date: February 2, 2006

Corporal Stokes is currently on administrative duties. She is assigned to third shift patrol and is presently on loan to the Administrative Division.

Corporal Stokes is currently being evaluated by a physician and licensed counselor in order to determine her fitness for duty as a Montgomery Police Officer.

Due to these circumstances, Corporal Stokes is ineligible for transfer to another division at the present moment.

EXHIBIT 12

MEMORANDUM

To: Major K. J. Murphy

From: Corporal C. L. Stokes #1279

Subject: Request for Transfer (Renewal)

Date: February 22, 2006

Sir, at this time I respectfully request to renew my letter of request to the Detective Division, Crime Scene Bureau. I am a 34 year old white female currently assigned to Third Shift Patrol and have been employed with the Department since February 15, 2002. Any consideration in this matter will be greatly appreciated.

Corporal C L Stokes 1279

Corporal C. L. Stokes #1279

EXHIBIT 13

#3

MONTGOMERY PSYCHIATRY & ASSOCIATES

William C. Freeman, M.D.
David D. Harwood, M.D.

Daryl K. Hamblin, PhD
Mollie E. Isaacson, LCSW

27 February 2006

Re: Candida Stokes

To Whom It May Concern:

This patient is currently under my medical care. At this time, I do feel that she is ready to return to duty as a police officer. If you have questions or require additional information, please feel free to contact my office at (334) 288-9009. Thank you.

Sincerely,

David D. Harwood, M. D.

DDH/ltt

Original letter mailed to: Candida Stokes
4018 Camella Drive
Montgomery, Alabama 36109

K24

2014 Normandie Drive, Montgomery, Alabama 36111-2712 PH (334) 288-9009 FAX (334) 288-9497

EXHIBIT 14

MEMORANDUM

TO: Arthur D. Baylor, Chief
Police Department

FROM: Michael S. Briddell
Executive Assistant to the Mayor

DATE: May 9, 2006

RE: RECOMMENDATION OF TERMINATION

It is the Mayor's decision to terminate Police Corporal Candida L. Stokes from employment with the City of Montgomery as stated in your memorandum dated March 1, 2006. Please prepare the necessary personnel forms and forward them to this office for approval.

Further insure that all the City personnel rules are followed.

APPROVED:

Bobby N. Bright
Mayor

MSB/wsf

EXHIBIT 15

1

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CIVIL ACTION NO.: 2:07-cv-686
CANDIDA STOKES,
Plaintiff,
vs.
THE CITY OF MONTGOMERY, et al.,
Defendants.

STIPULATION

IT IS STIPULATED AND AGREED by and between the parties through their respective counsel, that the deposition of Mayor Bobby Bright may be taken before Angela Smith McGalliard, RPR, CRR, at the offices of Mayor Bright, at 103 N. Perry Street, Montgomery, Alabama 36104, on the 30th day of June, 2008.

DEPOSITION OF MAYOR BOBBY BRIGHT

2

IT IS FURTHER STIPULATED AND AGREED that the signature to and the reading of the deposition by the witness is waived, the deposition to have the same force and effect as if full compliance had been had with all laws and rules of Court relating to the taking of depositions.

IT IS FURTHER STIPULATED AND AGREED that it shall not be necessary for any objections to be made by counsel to any questions except as to form or leading questions, and that counsel for the parties may make objections and assign grounds at the time of the trial, or at the time said deposition is offered in evidence, or prior thereto.

IT IS FURTHER STIPULATED AND AGREED that the notice of filing of the deposition by the Commissioner is waived.

* * * * * * * * * * * * *

3

* * * * * * * * * * * * *

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* * * * * * * * * * * * *

4

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CIVIL ACTION NO.: 2:07-cv-686
CANDIDA STOKES,
Plaintiff,
vs.
THE CITY OF MONTGOMERY, et al.,
Defendants.

BEFORE:
Angela Smith McGalliard,
Commissioner.

APPEARANCES:

DEBORAH A. MATTISON, ESQUIRE, of WIGGINS, CHILDS, QUINN & PANTAZIS, 301 19th Street N., Birmingham, Alabama 35203, appearing on behalf of the Plaintiff.

RACHEL L. MCGINLEY, ESQUIRE, of WIGGINS, CHILDS, QUINN & PANTAZIS, 301 19th Street N., Birmingham, Alabama 35203, appearing on behalf of the Plaintiff.

APPEARANCES (continued):
MICHAEL D. BOYLE, ESQUIRE, of the CITY OF MONTGOMERY, 103 N. Perry Street, Montgomery, Alabama 36104, appearing on behalf of the Defendant.
ALSO PRESENT: Candida Stokes
* * * * * *

I, Angela Smith McGalliard, RPR, CRR, a Court Reporter of Pike Road, Alabama, acting as Commissioner, certify that on this date, as provided by the Federal Rules of Civil Procedure and the foregoing stipulation of counsel, there came before me at the offices of Mayor Bright, 103 N. Perry Street, Montgomery, Alabama 36104, beginning at 2 p.m., Mayor Bobby Bright, witness in the above cause, for oral examination, whereupon the following proceedings were had:

MAYOR BOBBY BRIGHT,
being first duly sworn, was examined and testified as follows:

COURT REPORTER: Usual stipulations?
MS. MATTISON: That's fine.
MR. BOYLE: Yes, ma'am.

EXAMINATION
BY MS. MATTISON:
Q. Can you tell me what, if anything, did you do to prepare for this

deposition?
A. About twenty minutes ago I walked to my attorney's office, and he told me are you ready to give your deposition, and I said yeah.
Q. Have you read anything over the last two or three months in this case?
A. No.
Q. You haven't read any previous depositions, don't know what any of the previous testimony was?
A. I do not.
Q. Okay. What do you understand this lawsuit is about?
A. About a former police officer who was employed with the City Police Department and had a problem with depression and attempted suicide, and then she was terminated. That's basically it in a nutshell.
Q. Okay.
A. That's all I know.
Q. Do you understand you are

being sued in your individual capacity?
A. No, I didn't know that.
Q. Okay. Do you know it -- I mean, did you ever know it?
A. Huh-uh.
Q. You need to say yes or no.
A. No, I never knew it.
Q. Okay. Do you -- Do you know of anybody else who works for the City who has been diagnosed with depression?
A. No.
Q. Okay. Do you know anybody else in -- who has worked or who does work for the City who has attempted suicide?
A. No. Not that I know of.
Q. Okay.
A. Sitting here this moment, I don't.
Q. Sure. You acknowledge that it is conceivable that other police officers may have attempted suicide and the department just has not been made aware of it, do you agree with me on that?

A. Would I agree with you that someone has attempted and they have not made --
Q. No. Let me rephrase.
A. Okay.
Q. Would you agree with me that it is possible that another officer may have attempted suicide, and it was not brought to the attention of the department?
MR. BOYLE: Object to the form.
A. It's possible.
Q. Okay. My understanding -- Well, let me stop for a second. What year did you graduate from college?
A. Oh, you're going back now. 1975.
Q. And where did you go to school?
A. I went to Auburn for two years, two and a half years.
Q. You went to a junior college, before that?

A. Yeah. Couldn't afford anything else.
Q. And where did you go to law school?
A. Jones, here at night. Couldn't afford anything else.
Q. When did you graduate from law school?
A. '83.
Q. All right. And you practiced law?
A. Sixteen years.
Q. Okay. And you practiced in Montgomery, I assume?
A. I did.
Q. All right. Were you -- What law firm -- Were you in a --
A. I was in my own law firm, McInnish, Bright, Goggins, and Chambless; and then it changed two or three times as law firms do; and at the end, when I was -- when I was elected mayor it was Bright, Long, and Parrish.

Q. All right. And what type of law did you practice?
A. A general practice.
Q. Okay. So wills, did you do any domestic?
A. Yeah, I did a lot of domestic. I did some domestic. I tried to stay away from it.
Q. Okay. Did you do criminal matters?
A. No.
Q. What sort of -- Did you do personal injuries?
A. Yeah.
Q. Defense or plaintiffs or either?
A. I did both. I split the fence.
Q. Okay. What other types of law, besides personal injury?
A. Real estate.
Q. Okay.
A. Title VII, 1983 civil rights

type of cases.
Q. Okay.
A. Medical malpractice.
Q. Did you do plaintiffs or defense work in Title VII in the 1983, or did you do both?
A. I probably did more defense than I did plaintiffs. But I may have handled one or two plaintiff's Title VII cases, one or two. And you really have to be, as you know, an expert doing a whole lot of it. But I did a little because I did more Title VII defense work than I did plaintiff's work.
Q. Did you do any work under the Americans with Disabilities Act?
A. No. Not really other than I knew it was there, and it was just really -- When I would have, it would have been just getting started, I think, when I was -- when I was practicing in the '80s, I guess, early '90s. I know it's been around a long time, but I didn't have much exposure to it.

Q. I understand. When did you stop practicing law?
A. '99, 1999.
Q. All right.
A. November of 1999.
Q. Okay. Did you -- I don't remember when the Family Medical Leave Act was in effect at that point?
A. No, it was not.
Q. Okay. All right. Now, as I understand it, in your role as the mayor, you basically are the decision-maker, if you will, for all terminations?
A. I am.
Q. Is that correct?
A. That's correct.
Q. All right. And you also have the responsibility, as I understand it, to assure that the federal civil rights laws are complied with, with regard to employment practices; is that correct?
A. I'm the final say-so on whatever happens out there. But so much

takes place before it ever gets to me.
Q. Sure.
A. And I either acquiesce or affirm what's been done previous, or I can reverse it and redo it.
Q. Right.
A. Throw it out.
Q. Right. But --
A. So I don't know if that answered your question.
Q. Kind of. You would agree with me that in your role, it's your job to make sure that the city employment practices comply with federal law?
Well, is it someone else's job?
A. Well, I've got lawyers that tell me whether or not we've complied with it or not.
Q. They advise you, do they not?
A. They advise me.
Q. But you're the decision maker?
A. After I listen to their

advice.
Q. But you are the decision maker?
A. Absolutely. The buck stops here like Harry Truman used to say.
Q. So essentially, it's your obligation to assure that the City complies with federal law?
A. I don't know if I can ensure. I try my best to make sure we do. I can't ensure anything.
Q. All right. Fair enough. All right. Now, do you know what is required by the Americans with Disabilities Act?
A. Absolutely not. I don't think you do either. But nobody does totally, it's been such a controversial law.
Q. Actually, I've concentrated about twenty-eight years practicing in that area.
A. Well, then you know a lot more than I do.
Q. Do you -- You are aware, are

you not, that Deputy Stokes is covered under the American's with Disabilities Act?
A. I don't -- I'm not aware of that.
Q. Okay. Well, have you done any investigation to determine?
A. No, I have not.
Q. Okay. The City receives federal financial assistance; correct?
A. We get federal grants from HUD and from a wide variety of different agencies out there, yeah.
Q. Right. You receive federal money?
A. Sure.
Q. So you're subject to Section 504 of the Rehabilitation Act?
A. I have no idea.
Q. Really?
A. I really don't. All I know is I'm mayor. And if somebody tells me -- if one of my lawyers tells me that we are subject to that, then we're subject to it,

and I have to rely on that.
Q. Okay. So you don't do any independent investigation yourself?
A. I don't.
Q. Okay. Do you understand what is required by the Family Medical Leave Act?
A. Not really. I just know of it, and I know that there are certain criteria that has to be met in order for you to fall into that category. What are that criteria, I have no idea.
Q. You haven't undertaken to receive any training or to educate yourself regarding that law?
A. No, ma'am.
Q. Okay.
A. Should I -- Never mind. I don't ask questions.
Q. Have you taken it upon yourself to acquaint yourself with any of the federal civil rights laws that apply to the City employees?
A. When you say taken it upon

myself, no. If you're talking about going out to seminars or going to a law book and pulling the law, and all. I'm an administrator as mayor, I'm not a legally-trained person. If there's an issue that comes up, we call in the lawyers and let them advise me on what the law says and what -- and then tells -- then I do an administrative application of that law.
Q. Sure.
A. Try to.
Q. Right. But the lawyers aren't the mayor, you're the mayor; correct?
A. That's absolutely right.
Q. You're the decision maker; correct?
A. You're right.
Q. And you're trained in the area of law; correct?
A. I'm trained what?
Q. You're a lawyer?
A. Yeah.
Q. So you have legal training?

A. Sure.
Q. All right. Do you know even generally, what Section 504 of the Rehabilitation Act requires?
A. No, I don't.
Q. Any idea at all?
A. No.
Q. Did you -- Do you know that the City tells the federal government that it is in compliance with Section 504?
A. I don't know that.
Q. Really?
A. No.
Q. Okay. You sign the assurances, do you not, to the federal government?
MR. BOYLE: Object to the form.
A. I don't know that. I don't know who signs them. I sign my signature a couple of hundred times a day. And I can assure you, I can't read all those documents. I have to rely on people to tell

me: This is where you sign, Mr. Mayor.
Q. All right. I think we've established that you made the decision that -- that Deputy Stokes would be terminated; is that correct?
A. That's right.
Q. And tell me all the reasons why Deputy Stokes was terminated.
A. I am the final say. What happens is, there's probably two or three administrative hearings before it ever gets to me to sign. And one of those administrative hearings is mine, but I delegate that responsibility to one of my executive assistants to have that hearing.
Q. Uh-huh.
A. And when he comes in and says: Mr. Mayor, we need your signature on this document, he tells me it's a termination letter, and it's this -- and these are the facts. And then he gives me a recommendation. And then he also -- that recommendation -- In that recommendation, it

also tells me that -- it tracks what has taken place up to that point. And then I make a determination. If I have further questions to ask, I make a determination -- I ask those questions. And if I get good answers or get the answers to those questions, then I sign off on the final recommendation. If I don't get good answers, then I send it back or I reverse it or I throw it out or I change it or I do whatever I think is appropriate.

And that's what happened here is that it comes up to me with a final recommendation of a different hearing agent -- boards, and then I either sign off on it, or I reverse it or do whatever I need to do to correct what I think has been done.

Q. Okay. But my question to you is on this particular case --

A. Sure.

Q. -- what were the reasons, all of the reasons, for Deputy Stokes' termination?

A. I really don't know all the reasons, to be honest with you. I don't even know the facts, as we sit here.

Q. Do you know any of the reasons?

A. I know, I think, based on what I was -- I don't know if I need to talk about attorney-client. But based on my meeting with my attorney, and I recall the major fact is that -- is it Deputy Stokes?

Q. Yes.

A. She's a deputy?

Q. Yes.

A. She committed suicide -- or attempted to commit suicide.

Q. Okay.

A. That to me, in and of itself, is justifiable grounds not to be a police officer.

Q. Tell me why.

A. Ooh, man. I've been trained in police work, and you just don't want someone with that instability carrying a

lethal weapon and representing our police department out on the streets of Montgomery. It's a tough enough job for a completely okay person.

Q. What do you mean a completely okay person?

A. A person that doesn't have the depression and the mentality to commit suicide.

Q. Okay. So you were concerned that she was -- that Deputy Stokes was mentally unstable it sounds like?

A. I don't know if that's -- That sounds so cold. I just don't know if she had the capability to be the type of police officer that she needed to be to be on our force with that -- I mean, you know, it's one thing to be depressed; it's another to actually act out that depression to the point of self-destruction. And can you imagine if -- what could happen to her out there on the streets if some of these thugs that are out there, that she has to deal

with found that out and started -- and started using that against her in some form or fashion? That could create tremendous liability for her, but also for the City of Montgomery.

Q. Okay. You said you don't know if she could be the type of police officer that would be -- and I'm recharacterizing you but I don't mean to, so correct me if I'm wrong.

A. Okay.

Q. You didn't know if she could be the type of police officer that would be appropriate for the Montgomery Police; is that essentially what you're saying?

MR. BOYLE: Object to the form.

A. Not with the fact that she acted out her depression. That's the bottom line here, I think, more than anything. I think bottom line is, had she not taken that, I think, the extreme step, the ultimate step of self-destruction, we would

have, and I think we did -- would have worked with her to try to correct or improve or help the depressed stage.
But when you take the final act of -- It's kind of like a criminal, you do everything you possibly can -- I'm not saying she's a criminal.
Q. I understand.
A. I'm saying in fighting crime, you do everything you can to keep them from committing the crime, and you can really do a lot of things to help that. But once they commit the crime, it's kind of taking it out of your hands. You then have to prosecute them, and they have to serve time, things like that.
In her case, up to the point of committing the act, we would do everything we possibly can to help make her a better and more stable police officer. But once the act was committed, our hands, I think, are tied. We can't do anything else. And you're -- You, at that point in time,

become an unfit police officer -- person to become a police officer on the Montgomery Police Department. I'm not saying, you know, another county or another department, what they -- what their criteria and what their qualifications would be, but ours is pretty rigid, to be honest with you. Pretty straight and narrow.
Q. Well, is it your testimony then that had she just had depression and not attempted suicide, that -- what would the department have done with her?
A. I think they were already doing things with her. Wasn't she already participating in the drug assistance program -- employee assistance program, not drug assistance, employee assistance program?
Q. Do you know whether she was?
A. I was told she was and I assume she was.
Q. Okay. So what exactly were they doing with her?
A. I have no idea.

Q. Okay.
A. That's not my business.
Q. So is it -- Is it your -- So, does the department screen or take any steps to find out who in the -- who in the -- Strike that.
Does the City take any steps to ascertain which of its police officers have depression, or any sort of mental illness?
A. You know, you're asking me --
Q. I'm asking you.
A. There may be, but I don't know. I don't know if there are any procedures or any tests. You know, we hire -- we hire personnel, and we send them through a pretty rigid list of qualifiers, and one of them is a mental evaluation. And if they pass that, then they come in, and we put them in the academy, and then we train them.
Q. Is it your testimony that the department conducts mental investigations of

its police officers prior to their hire?
A. Uh-huh. That is my testimony. Psychological. I don't know if they call it mental, a psychological evaluation.
Q. Okay. So this is during the application process?
A. Sure.
Q. Do you know that's a per se violation of the ADA in section 504?
A. I don't know anything. I don't know the law on that. If it is, you need to let us know so our lawyers will stop it if it is against the law.
Q. Do you care whether it's against the law?
A. If it's against the law, I definitely care.
Q. If it would be illegal to screen somebody for mental health --
A. Is it mental health or psychological?
Q. Same thing.
A. Psychological evaluation? I

don't know.
Q. If it was illegal to conduct any sort of psychological/mental health evaluation during the application stage -- Let me ask you this: Do you know for sure that the police department actually conducts mental health/psychological evaluations during the application phase?
A. I know we do. That's one of our disqualifiers.
Q. Okay.
MS. MATTISON: Let me make a bumble bee in the Record and just note that we haven't seen any mental health evaluations of anybody. So if there are, we can talk about this later.
A. If there's not, I apologize. That's one of our disqualifiers that I'm aware of.
MR. BOYLE: Off the Record.
(Off-the-Record discussion was held.)
Q. Okay. Now, so the City then

relies on persons to state whether they have a mental health issue; is that right?
A. I really don't know. You're asking me details I don't know. I mean, I'm just the administrator.
Q. Well, you're the final say for the City, are you not?
A. I know that, but --
Q. Am I correct?
A. You're right, I am.
Q. Okay.
A. You're right, I am. But that doesn't mean that I have all the information and all the knowledge.
Q. Okay. Would it be in your opinion -- Now, I'm a little unclear about the thugs finding out about the suicide. Explain that to me, what's the risk there?
A. If they knew that she had attempted something like this drastic to harm herself, they would possibly antagonize her to try to do more. Or they would use it against -- If she was to shoot one of these

guys, they would probably -- and kill them, their estate or even they would probably bring some type of lawsuit. You know how litigious we can be out there, people can be out there and accuse us that she was incompetent or incapable of making a rash decision, as to whether or not to shoot them or do something to them to stop a crime some way or another.
It's asking for -- I will tell you, it's asking for absolute complicated issues that don't need to be present when you're dealing with the public and fighting crime with the public --
Q. Okay.
A. -- even for her benefit. Even for her benefit. She doesn't need to have to be subjected to what she could possibly be subjected to if she had to use deadly force on someone.
Q. All right. Now, so it sounds to me, then, that you had some concerns about a possibility -- let me -- You don't

have any evidence that any of these things would have happened, you have concerns that there was a possibility that some -- let me just finish the question. I can see you're going to answer before I'm done.
But there was a possibility that some of these risk factors may arise; is that your concern?
MR. BOYLE: Object to the form.
A. Yeah. I guess you could say that.
Q. Okay.
A. They may arise. I can assure you, they will arise.
Q. Okay. Well, are you aware that Deputy Stokes has been employed as a police officer, essentially, since she left Montgomery and has done so without incident?
A. I am not aware of that.
Q. Okay.
A. But more power to her.
Q. Let me ask you this: Do you

have any medical evidence that supports your belief about the potential safety risk?
A. I don't have medical.
Q. Okay.
A. I mean, I don't have any myself. I'm sure you can go out there and find plenty of folks who would testify to just what I said.
Q. Well, let me ask it this way: At the time you made the decision to terminate Deputy Stokes, was the department in possession of any medical evidence that supported the department's actions?
A. Not to my knowledge. Not to my knowledge. This is based strictly on my experience and many years of experience. I've been in law enforcement and been trained also.
Q. Have you had any other police officers or worked with any other police officers that have attempted suicide?
A. Not that I know of. Not that I remember.

Q. Okay. So you don't have any actual experience with law officers that may have attempted suicide, you don't have any experience that those persons are -- actually subject the department to a risk; is that correct?
A. You know --
Q. If you'd answer my question, please, sir.
A. I don't know any police officers who have done this before, that lived to tell about it.
Q. All right.
A. I do know other police officers who have committed suicide. But she, I guess, is the only one that I know of that lived to talk about it.
Q. So you don't know, in fact, what the risk factors were. You were -- Well, you don't have any experience with what the risk factors may have been with somebody who attempted suicide, because you've never worked with any officer who has

done that; correct?
A. Wow, that was a complicated question. I'm not sure I can answer it.
MR. BOYLE: I'll object to the form.
Q. I'll ask it again.
You don't know -- Strike that.
Since you have no experience working with a police officer who has attempted to commit suicide -- let me finish please.
A. You're telling me I don't have any experience, maybe I do, and I don't know about it.
Q. Well, you've testified that you don't know of any police officer that attempted suicide that you've worked with, are we together on that?
A. That I can think of, as we sit here right now.
Q. Yeah, sure. All right.
A. But I'm sure there's people out there who have had depression that I've

worked with, possibly. But no one that I know of that actually committed the attempt or made the attempt.
Q. I understand. So since you've never worked with a police officer who has attempted suicide, you don't actually have any experience of how they might act if they were allowed to return to work, do you?
A. I mean, I guess not.
Q. Okay.
A. But I'm not sure with the question you're asking --
Q. You can't tell me of any evidence?
A. I have no specific knowledge of police officers --
Q. Now, you -- My understanding is that since you decided to terminate Deputy Stokes, you effectively were of the opinion that she could -- was not capable of performing the job duties that were contained in her job description; is that correct?

MR. BOYLE: Object to the form.
A. No, that was not the reason. There were a lot of other reasons -- I say reasons, potential other reasons that I followed through with the termination.
Q. Well, did you think that Deputy Stokes was capable of performing the job duties in her job description?
A. She had been capable at some point in time, and she may even have become capable after the act. But there is tremendous problems there that exist, and will continue to exist for the rest of her career, as a result of her attempting to do what she did. And it's amazing what could develop out there.
Q. What do you mean what could develop?
A. I've stated it before, she could very much have -- I mean, she could -- she is -- You know, she could fail to take the proper medication, and us not know about

it, and her go out on the job, and create liability for herself, and even get hurt or killed herself by someone, you know, that we -- and we would not even know that she's having a problem with failing to take her medication properly. There are -- And she could go out and be taking her medication and not -- and not be responding to it properly and shoot somebody or hurt somebody and expose the City to liability and herself, again. And, yet, you know, you don't ever know. You're asking me my conjecture on some -- on what could happen. It could be a variety of different things that could happen.
Q. Well, do you know whether she was on medication?
A. I have no idea.
Q. Okay. So maybe she wasn't on medication to take?
A. I don't know.
Q. Is that right?
A. I have no idea.

Q. Does the City monitor whether it's other employees take their medication?
A. No, ma'am, that I know of.
Q. Are you on any medication?
A. No, ma'am.
Q. Nothing at all?
A. None at all.
Q. Okay.
A. Unless I have to have some Tylenol for a headache. And I need a little bit right now.
Q. So I'm unclear, after she attempted suicide, is it your testimony that she was capable or was not capable of performing the duties in her job description?
A. You know, she might be capable -- You can be capable of doing things after you've done a particular act. But it -- It also sends a clear message that you are capable of doing that act, that in and of itself, is sufficient to terminate your employment relationship. So -- I don't know

how to answer your question, I mean, other than what I just said.
Q. Well, you also said that she might shoot someone, is that what you testified to?
A. I don't --
Q. I mean, did you --
A. She could have.
Q. Did you consider in terminating her that she might shoot someone?
A. Ma'am, I'll tell you what I considered --
Q. Here's the question. The question is: Did you consider, when you decided to terminate her, that she might shoot someone?
A. Absolutely. You always do with a police officer.
Q. Okay.
A. In her defense -- Defending her under these situations would be pretty difficult.

Q. Do you know whether there's any correlation between people that attempt suicide and people that shoot others? Do you know whether there's any correlation between it?
A. No. That's not my forte. I don't make those determinations.
Q. Okay. Now, you are aware, are you not, that if Deputy Stokes was addicted to an illegal substance that -- and wanted to get treatment for it, and actually broke the law by ingesting and being addicted to the illegal substance, that in and of itself, that would not be a grounds for termination?
A. It would in my opinion.
Q. You are aware, aren't you, that the City -- and there's also already been a significant amount of testimony with this, that the City's policy is that if somebody is addicted to drugs or alcohol and wants treatment, that they are not -- that they are not necessarily terminated, that

people go back to work?
A. That's not my understanding of the policy --
Q. Okay.
A. -- as you stated it.
Q. So it's your understanding that every -- everybody -- Let's just stick with police officers for right now -- that every police officer that is addicted to drugs is necessarily terminated even though the person secures treatment for the drug addiction?
A. Can you ask the question again?
Q. Yes. Is it your understanding that employees who are -- police officers who are addicted to drugs, who secure treatment for their drug addiction, that those persons are terminated?
A. Is it my knowledge that that's what happens to them?
Q. Yes.
A. No. That's not what happens

to them. If they seek treatment before they get caught, you know, we work with them. We'll let them -- That's why we provide the employment assistance program.
Q. Okay. So do you realize that there are employees, police officers, that show up positive with their -- for illegal drugs that are allowed to enter rehab and continue to be employed by the City?
A. If they voluntarily do it and before they are caught. If they get caught, they get caught. If we have to catch them, then, of course, we take the action. It's not voluntary anymore.
Q. You take what action?
A. We go through the disciplinary hearings. And then if they -- If it warrants it, then we terminate them. If it warrants the termination, we terminate them. And there, again, there are so many avenues you can travel down before it ever gets to me. But -- And every case is almost different, just about.

Q. Why didn't you work with Deputy Stokes, she was getting treatment, wasn't she, for her depression?
A. As I was told, she was in the employment assistance program.
Q. Yes. But after she attempted suicide, she got treatment, didn't she?
A. I don't know what she did. I have no idea.
Q. Okay.
A. All I know is --
Q. So you didn't investigate whether she got treatment after she attempted suicide?
A. I didn't have to. We worked up to the point of the suicide attempt. And that, to me, disqualified her to be on the Montgomery Police Department.
Q. Then why did the department even go through a fitness-for-duty evaluation?
A. When did they do that? You're talking about after the suicide attempt?

Q. Yes.
A. I have no idea. I don't know.
Q. Wouldn't have mattered what the fitness-for-duty evaluation came back and said, because as far as you're concerned she would have been terminated; right?
A. I don't know if that's the way to determine. But you'll have to ask them why they went through the procedure.
My -- You're trying to get me involved in the facts, other than making the final determination. My job is the final determination based on the recommendations. The recommendations all came to me to terminate her, and I saw the justification there. Now, why they made the recommendation, you'll have to ask them. Mine was whether or not to continue her employment. And my -- Every recommendation that came up said do it, and I felt very comfortable doing it.
Q. Well, the reason I'm asking you is you are the decision maker and you

are responsible for --
A. And we've cleared --
Q. Excuse me. You're going to have to let me finish, please.
You are the decision maker and you are responsible for the employment actions that go on. So I intend to, and will ask you what you knew about this case before you made a determination, and what you attempted to investigate and what you learned about it. Okay?
A. All right.
Q. So, did you realize that a fitness-for-duty evaluation had been conducted on Deputy Stokes?
A. Not after the suicide attempt.
Q. All right. Now, you said, quote, everyone recommended her termination. Who recommended it?
A. Each board that she met.
Q. By name, who recommended it?
A. I don't know. There's --
MR. BOYLE: Can we get this

back under a civil term?
MS. MATTISON: Yeah. I am.
MR. BOYLE: He was trying to say through the board and through the process, he doesn't know everybody who's on the board.
A. I don't know all the people that's on the board.
Q. I'm asking for names. I think that's a proper question.
A. Names?
Q. Yeah.
A. I have no idea.
Q. You don't have any idea who recommended termination?
A. No.
Q. Not even one person?
A. My assistant Michael Bridell, if he was the one that heard it.
THE WITNESS: Was it Michael Bridell?
A. Michael Bridell.
Q. Okay. Do you know anybody

else?
A. No.
Q. Okay. Are you aware that Deputy Stokes was on Family Medical Leave?
A. No.
Q. You didn't know whether her -- as a result of suicide, she was on Family Medical Leave?
A. I have no idea.
Q. Are you aware that under the Family Medical Leave Act, that it is illegal to terminate somebody for exercising their right to Family Medical Leave?
A. No. But I assume -- I assume it would be.
Q. Are you aware that she has -- that her suicide attempt defined her as an employee with a serious health condition?
A. No, I am not aware of that.
Q. Are you aware that under the Family Medical Leave, the -- it is illegal to terminate somebody for having a serious health condition; that is, the whole purpose

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of the Family Medical Leave, is to protect people's jobs?
A. No. I'm not aware of that, not as you stated it.
Q. Did you understand that the Family Medical Leave Act protects people who go out to get treatment, assuming they meet the definition of serious health condition, and that it entitles them to their job when they are released to go back to work?
A. I didn't know that. Not as you stated it.
Q. Okay. Would it be wrong in your opinion, for the City to determine -- to terminate an employee, make a determination to terminate an employee before they are even allowed to be heard on the matter?
A. No. There's a set of facts that would justify termination, if they didn't need the person to be heard.
Q. Say that again.
A. There are a set of facts out

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there, and this would be one of them, their own conduct speaks for the person.
You don't have to -- I'm sure you know this in due process, you don't have to -- circumstantial evidence can be as valuable and conclusive as direct evidence in a particular situation.
Q. Maybe you're misunderstanding me.
A. Okay. Clear it up.
Q. You would agree with me that the hearings that employees are entitled to, that the purpose of those hearings is to determine whether a person is going to be terminated?
A. That's right.
Q. Okay. So it would be wrong, prior to the employee being given an opportunity to go to the hearing, it would be wrong to make a predetermination that that person would be terminated prior to the hearing?
A. Not if you've got documented

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evidence of the wrongdoing. I mean you can make -- I mean, the hearing -- The person doesn't even have to be there to be fired or terminated. Is that what you're asking?
Q. No. I'm assuming that the City, in good faith, your employees are terminated for cause; right?
A. Don't ever assume anything.
Q. Your employees are terminated for a cause; is that right?
A. They are supposed to be or they don't get terminated.
Q. Right. So one of the important pieces of determining whether there is cause to terminate, is the hearing; correct?
A. Well, hearings are important, yeah, to get to the facts.
Q. Yes. Exactly.
A. Sure.
Q. So all I'm saying is that the correct procedure is to allow the employee the due process right to attend the hearing,

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put forth their testimony prior to a determination being made that the person is going to be fired?
A. Well, that's very complicated. No, I don't agree with that.
Q. Okay. So why bother then to go to the hearing? If a determination is made that an employee is going to be fired, I'm not talking about a recommendation, I'm talking about a determination, if a determination is made that an employee is going to be fired before a hearing, do you understand the difference between a recommendation and a determination?
A. Uh-huh.
Q. You need to say yes for the court reporter.
A. Yes.
Q. So in this case -- Let me ask you this: In this case, was a determination made that Deputy Stokes was going to be terminated, prior to the hearing?
A. No.

MR. BOYLE: Object to the form.
Q. And it would be wrong for a determination to be made that Deputy Stokes was going to be terminated, prior to the hearing; correct?
A. You know, you're really confusing me with the facts.
MR. BOYLE: Object to the form.
A. Because you're asking me questions that were made by -- and decisions made by other people, that I have no idea whether or not they were made.
Q. I'm not asking you that.
A. Yeah, you are. You're asking me to say if somebody made before a hearing to terminate her before they had the hearing. Ask me was there a determination made by me before the hearing? No, there was not.
Q. No, that's not what I'm asking.

A. Okay.
Q. What I'm asking is: As the chief executive of this City, you would agree with me that it would be improper to make determinations on termination, not recommendations, determinations on termination prior to the employee being allowed to present their case at a hearing?
A. Not necessarily. Because many times the evidence is not at -- The person doesn't have to be there for the evidence to be significant enough to make a determination.
Q. Okay. Forget about whether the person is at the hearing.
A. Your question is asking that.
Q. Let me ask it a different way then.
A. Okay.
Q. You would agree with me that employees are not -- that it would be wrong to determine that an employee would be terminated before a hearing is held;

correct?
A. Yeah.
Q. Okay.
A. I mean, officially, for whatever that's worth. But I don't think that's the case, I don't believe. You may have -- You may have had people discuss it, but I don't think you're going to have anybody say that she was fired before she had her hearing.
Q. Well, has anybody told you that --
A. No.
Q. Okay. I don't know how you can say no when I haven't even gotten the question out?
A. I know what you were going to.
Q. What am I going to say?
A. You're going to ask me have I been told that anybody made a decision to fire her before the hearing, and I was going to say no.
Q. No, I wasn't actually.

A. Okay.
Q. Why don't you wait and let me ask the questions, okay.
A. Why don't you make sense in your question.
MR. BOYLE: Don't argue.
MS. MATTISON: Bumble bee this. Would you please ask him not to insult me?
MR. BOYLE: I would ask that you not -- I mean, he's trying to answer the question. I understand both sides. I would ask for civility on both sides.
A. If you took my statement as an insult, I apologize. I didn't mean for it to be.
But if you make your question very clear and short, I probably can answer it clear and short.
Q. Mayor, I've taken a lot of depositions, and I don't generally have a hard time having my witnesses understand what I'm asking.

A. Okay. Maybe I won't.
Q. All right. So in your opinion, prior to Deputy Stokes attempting suicide, was she a good police officer?
A. I have no idea.
Q. Okay.
A. Didn't know her, didn't know anything about her.
Q. All right. Now, do you know what rules Deputy Stokes was charged with during the hearing process?
A. No.
Q. Do you have any idea?
A. I don't recall. It's been a while back.
Q. Okay. Well, as a matter of fact, the first -- the trial board recommended that on one of the charges, and I'll represent to you that she was -- she was brought up on two charges, the charge of fitness for duty, that she had not violated that rule. Were you aware of that?
A. No.

Q. Were you aware that the chief of police misread that finding?
A. I'm not aware of that.
Q. How long did it take you to make the decision to terminate Ms. Stokes?
A. I have no idea. That's been a couple of years ago I think.
Q. Well, did you ponder it for a day or so, or was it something that you made a decision about relatively quickly? I'm assuming quickly.
A. I really don't know how long it took and how long I pondered it.
Q. How -- Did you ponder it at all?
A. I don't recall.
Q. Okay.
A. And I've said that three times.
Q. How did you first hear about Deputy Stokes?
A. I have no idea. I don't recall. It's been a while.

I have hundreds of transactions daily. And all I know is it came through my office in the form of a termination hearing that my executive assistant had conducted at my direction.
Q. All right. Well, how do you remember -- What is your first memory of knowing anything about Deputy Stokes?
A. I don't recall, other than we had a police officer who tried to commit suicide. And I don't -- I don't remember who told me, I don't know what day that was, or anything about it. I really don't.
Q. Well, did you hear about it prior to the board hearing?
A. No. I mean, probably, but in the -- in the mix of City business. I get briefed -- I get briefed daily on activities going on in the City. And if a police officer is -- has committed suicide or been injured or whatever, attempted, they'll brief me in my briefing, and they'll tell me as little as they can to make sure that I

know what's going on.
Q. If you knew that another police officer, any police officer, had -- was being treated for depression, would you -- would you -- would you ask that any action be taken, either any evaluation or any action?
MR. BOYLE: Object to the form.
A. No. No, I wouldn't.
Q. Okay.
A. Because I didn't ask for any additional information or action to be taken against her.
Wasn't she being treated for depression prior to?
Q. Yes. But I think you testified you didn't know her prior to her suicide.
A. I didn't.
Q. Okay.
A. But I'm just saying, I didn't know her, and why would I know another

police officer?
Q. Sir, I think you're speculating as to what I might be asking you or where I'm going. I'd ask you -- It will be easier for, I think, both of us if you don't try to guess at that.
A. I'll try my best.
Q. My question is more generally.
A. Okay.
Q. If as a general rule you became aware that a police officer, forget about Deputy Stokes, was being treated for depression, would you ask that that person be evaluated for duty or take any special precautionary action?
A. No. Not unless something unusual happened surrounding his duty, him on duty.
Q. Now, do you know Officer Renfroe?
A. Huh-uh.
Q. That's a no?
A. No.

Q. You need to say yes or no.
A. That's a no.
Q. I'm assuming -- I'll represent Officer Renfroe --
A. Can I correct that and say I don't know him by name. I may know him by face, but I don't know him by name.
Q. Are you aware that there was -- Are you aware that some of your police officers, male police officers, do things like stalk their girlfriends --
MR. BOYLE: Object to the form.
MS. MATTISON: Let me finish.
MR. BOYLE: The very start of that is you're asking him if he knows about a criminal act of his employees.
MS. MATTISON: Uh-huh.
MR. BOYLE: And I'm going to ask him -- You can finish asking him. Let me make sure I'm not doing the same thing he was doing. Go ahead.
Q. Okay. Are you aware that

there is a police officer with the last name of Renfroe, male, who stalked his girlfriend and is still working for the police department?
A. I'm not aware of that.
Q. Okay. Are you aware of Officer Kephart, K-E-P-H-A-R-T, also a male, who shot -- basically shot in the air, opened fire in the air, at a funeral in Prattville and is still employed by the police department?
A. I vaguely, probably, in one of my briefings that they did that.
Q. Okay. Can you tell me any reason that Officer Kephart is still employed by the department?
A. No.
Q. I'm going to represent that there is an Officer Bruce, also a male, took money from a drug dealer. Does that ring a bell to you?
A. No.
Q. Still employed by the police

department or by the City. Can you give me any information as to why that person is still employed?
A. No. None. No information.
Q. Are you aware of Officer Naquin, N-A-Q-U-I-N, had difficulty being observed drinking in his patrol car as well as other issues and still with the police department?
A. I am not aware of that.
Q. What about Officer Mills, found positive for cocaine and still working for the police department?
A. I am not aware of that.
Q. What about Officer Norman, took pictures of -- this was on television so I hope you remember it, took pictures up women's skirts with a cell phone, still working with the police department?
A. I am aware of that.
Q. And can you tell me, Officer Norman is a male; right?
A. Sure.

Q. Can you tell me why Officer Norman is still working for the police department?
A. There was an investigation, and the investigation found him innocent of any wrongdoing.
Q. There was? Okay.
Is that your understanding that he was not found to have violated rules?
A. Yeah.
Q. You're sure about that?
A. I'm not absolutely sure, but I'm telling you what I am being briefed.
Q. All right. Do you have concern -- Are there -- Strike that.
Are there any other types of physical or mental conditions which you think might make a police officer unqualified to perform his or her job?
A. There's a number of them out there.
Q. Okay.

A. How do I address them? Physical, sickness, contagious diseases, there's a number of those. I mean, you know, mental and emotional problems that would not allow them to be police officers or do their job effectively or threaten other folks out there.
Q. What about someone who had --
A. Criminal activity.
Q. I'm just talking about physical or mental conditions.
A. I'm talking about criminal activity. If you let somebody commit a crime, that is a justification to terminate.
Q. Okay. But this question does not ask what are all the justifications, this question asks what are the mental and physical conditions you think that might disqualify someone?
A. Criminal intent is a mental. I think it's justification to terminate.
Q. What about somebody who has been committed to a psychiatric hospital,

would you have concerns about that person?
A. Becoming a police officer or after he or she became a police officer?
Q. Either way.
A. You know, the test before, it would probably be a factor to disqualify them.
Q. Okay. What about after they had --
A. After they're on, if they were there for treatment and to improve or for whatever, up to the point of I think, you know, it would be less a factor in maintaining their employment.
Q. Okay.
A. If they displayed they can do the job and have done the job and then became ill afterwards.
Q. Whose decision was it to -- When Deputy Stokes wanted to return to her job, whose decision was it not to allow her to return? And that is a different decision than the decision to terminate her.

A. Tell me what you're talking about. Who, what, when.
Q. Yes. Deputy Stokes was released to work approximately -- in mid-January and was not allowed to return to work as a police officer out on the streets. Do you know whose decision that was?
A. No.
Q. Can you tell me whether there -- she was also -- she was assigned to a back desk and was not allowed to wear her uniform.
A. I don't make those decisions.
Q. Can you tell me whether you know of any undue hardship the City would have incurred by allowing Deputy Stokes to wear her uniform while she was working at the back desk?
A. I don't know -- I don't know because I don't make those decisions.
Q. But as you're sitting here right now, can you think of any hardship it would have been on the City to let her wear

a uniform while she worked at the back desk?
A. No. But that doesn't mean there's not some.
Q. Right. I'm just asking you if you --
A. I don't know of any.
Q. Can you tell me whether you ever considered transferring Deputy Stokes to a vacant, nonpolice officer position?
A. I didn't.
Q. Okay. Can you tell me why?
A. It never came up.
Q. Well, don't you have obligations under Section 504 in the Americans with Disabilities Act, to look at transferring somebody who you believe no longer qualified to perform their job, to a vacant position?
A. Not that I know of.
Q. Do you know one way or the other?
A. Not that I know of.
Q. Okay. Well, let me ask you

this: If there would have been a nonpolice officer job available for which Deputy Stokes was qualified, what would have been the hardship, if any, in just simply transferring her to a nonpolice officer job?
A. Because we hired her to be a police officer. And we're not under -- that I know of -- any legal obligation to create or even put her in another job if she fails to meet that qualification.
Q. You're not aware that the Americans with Disabilities Act, in Section 504 specifically discusses transferring to a vacant position as a form of reasonable accommodation?
MR. BOYLE: Object to the form. Asked and answered.
A. No, ma'am.
Q. Let me ask you this.
A. Okay.
Q. When you decided to terminate Deputy Stokes, you've already testified that you spoke with your assistant. I'm assuming

your assistant -- What's his name? Let me make sure I've got his name.
MR. BOYLE: Bridell.
Q. Bridell doesn't have any medical background, does he?
A. I don't know. You'll have to ask him. I don't think he does. I don't ever assume.
Q. Who else did you discuss this matter with?
A. Nobody.
Q. So you didn't go talk to the lawyers?
A. I don't recall, to be honest with you. All I know is it came to me, she had committed -- attempted suicide, and there was no job for her as a police officer in the Montgomery Police Department.
Q. Okay.
A. And I don't know who we talked to, if I talked with anybody.
Q. I'm talking about you.
A. I don't remember. I really

don't remember.
Q. You talked to your assistant, and you don't remember if you talked to any --
A. I really don't. I may have talked with a lawyer, I don't know. I don't remember.
Q. Okay. Did you ask any questions?
Or tell me -- Did you ask any questions about Deputy Stokes' condition or was it sufficient to you to know that she had attempted suicide and that was the end of the matter?
A. I didn't -- I don't recall asking questions.
Q. Okay.
A. I really don't.
Q. Okay.
A. That doesn't mean I didn't, but I could have. It's according to what -- whoever you talked to, that I talked with.
Q. Have you, yourself, ever sued

anybody?
A. Personally?
Q. Yes.
A. No.
Q. Are you married?
A. Yeah.
Q. Happily.
(Off-the-Record discussion was held.)
Q. All right. Now, what -- John Carnell, you know who he is, don't you?
A. Yeah. He's my risk manager.
Q. Did you speak with Mr. Carnell about Deputy Stokes?
A. I don't recall. I really don't recall.
Q. What role, if any, did he play in this matter?
A. I don't know.
Q. Okay. Now, you were aware, were you not, that Deputy Stokes was challenging, fighting for her job? You didn't think she wanted to be fired, did

you?
A. I didn't know that. I really didn't. All I do is make a decision when it comes to my office. I don't -- I don't -- If somebody comes in with all the paperwork and they tell me what they have done and what they recommend, I look at what I have in front of me, and then I make a determination.
Q. What did you look at for Deputy Stokes?
A. What did I look at?
Q. Uh-huh.
A. Probably whatever the recommendation was by the -- Whatever I signed is what I looked at.
Q. Well, do you know for sure what you looked at?
A. No. It's been a while. I can assume, but I don't want to assume.
Q. Does it bother you at all that you're making important decisions that impact people's lives, perhaps without all

the knowledge regarding the law?
MR. BOYLE: Object to the form.
A. Not at all.
Q. Okay.
A. Not at all. And I'll tell you why.
Q. No, that's fine.
A. So many other folks are making the investigations, and I don't have time to make those investigations.
Q. Yes. But you have to make sure that they are making the investigations --
A. You're right. I try to do the best I can.
Q. Please let me finish.
A. Okay.
Q. You have to make sure, it's your job, your responsibility to make sure that the investigations are being conducted in a complete and thorough manner, do you not?

A. To the best of my ability as a human being that has a very limited amount of time to be able to dedicate to some of these decisions. But I dedicate and delegate this responsibility to people within the City who I have confidence in.
Q. Yes. But in order to -- In order to determine whether the people, and let's just deal with the employment matters, whether you have appropriately delegated your authority, you have to have some oversight authority to determine whether your delegation is conducted appropriately, do you not?
A. The buck stops here.
Q. Yes.
A. And if I can finish, I'll tell you what we do. What we do --
Q. I just want to know what you did on this case. I don't really care what you do on the other cases.
A. I don't know what I did on this case because it's been so long ago.

Q. Okay. So you -- Let me see if I've got this straight. You don't know what the law says under the Family Medical Leave Act --
A. I don't.
Q. -- or the ADA --
A. I do not.
Q. -- or Section 504?
A. I do not.
Q. Do you know whether Mr. Bridell knows what the law is under those statutes?
A. No, I don't know that.
Q. All right. You don't know what investigations were completed regarding Officer Stokes or whether those investigations complied with the law because you don't know what the law says; correct?
A. Somewhat.
Q. Okay. And you don't know whether you asked any questions regarding Deputy Stokes -- You don't remember whether you asked any questions about Deputy Stokes'

circumstances before you decided to terminate her; correct?
A. What circumstances? Prior to the suicide, during the suicide, after the suicide, or what?
Q. No. Surrounding the suicide and her ability to work.
A. I don't recall whether or not I asked questions.
Q. Okay.
A. It's not unusual for me to ask questions before I sign.
Q. But as we're sitting here, you don't know whether you asked any questions?
A. I don't recall any questions I asked.
Q. All right. Did you know that the police departments -- the City's own doctor had done a report that she was fit for duty?
A. I don't recall that. I think they may have told me that at least this morning or today, whenever I met with him.

Q. But the question is, did you know prior to terminating Deputy Stokes that she had been released by the City's doctor, who stated that she was fine to return to police officer duties?
MR. BOYLE: Object to the form.
A. I don't recall.
Q. Okay. Did you know that, in fact, three doctors, every doctor who saw Deputy Stokes, said she was fine and safe to come back as a police officer? Did you know that before you decided?
MR. BOYLE: Object to the form.
A. I don't recall what all I considered before signing the document.
Q. Okay. Did you -- Do you have any medical evidence at all that Deputy Stokes was a risk?
A. I don't. And I don't recall whether I had it at the time I made the decision.

Q. Well, I'll represent that there is no medical evidence in her file that indicates that she posed any risk.
A. Okay.
Q. Do you have any reason to --
MR. BOYLE: Object to the form on that.
Q. Do you have any reason to dispute that?
A. If there's no document --
Q. No medical evidence.
A. I don't have anything to dispute anything right now.
Q. Okay. What, if anything, did the department do or City do to investigate Deputy Stokes' claims of discrimination?
A. I don't know.
Q. Who would be responsible for that?
A. At the time she made the claim?
Q. Yes.
A. Probably internal affairs at

the police department, probably, would be the place. And we've changed that since -- in the last year or so.
Q. Well, do you know whether internal affairs took any steps to investigate?
A. I don't know. I really don't know.
Q. You would agree with me that somebody from the City should have taken steps to investigate whether Deputy Stokes' charge of discrimination, wouldn't you?
A. If she had filed a formal complaint, it should have been investigated.
Q. Okay.
MR. BOYLE: Can I ask for a five-minute break?
MS. MATTISON: Yeah, of course.
(Recess taken.)
Q. Okay. So you know you talked -- Just to be clear, you know you talked with Bridell; you may have talked to the

lawyer, but you don't know?
A. I don't recall.
Q. Did you talk to the chief of police?
A. I don't recall. I really don't.
I'm not trying to avoid your question, I just really don't recall. It's been a couple of years.
Q. I'm assuming that you wouldn't testify in any way, in an attempt to avoid my question.
A. No, I'm not either. Don't buzz that --
Q. Don't what?
A. Buzz. Bumble bee. Whatever you said a while ago. Never mind.
Q. All right. I'm sorry, if I asked you this before I apologize.
Is it your testimony, that you did not know that Deputy Stokes was on Family Medical Leave?
A. No, I didn't know it. No, I

didn't know, to my knowledge.
Q. And you -- Would it have made a difference to you if she was on Family Medical Leave?
A. I don't know. I really don't know.
(Whereupon, Plaintiff's Exhibit No. 10 was marked for identification.)
Q. I'll ask to you look at Plaintiff's Exhibit 10.
A. Okay.
Q. According to this, you approved Deputy Stokes' Family Medical Leave from December 19th to December 12th (sic); right?
A. Sure. I did.
Q. All right. Now, is this a stamp?
A. It is.
MR. BOYLE: Object to the form. I don't think those are the right dates. You said the 12th through the 19th.

Q. I meant to say December 19th through January 12th.
MS. MATTISON: Thank you.
MR. BOYLE: Okay.
Q. All right. Plaintiff's Exhibit 6, I'll ask you whether you've ever seen that document before? Please read it.
A. I haven't seen it.
Q. Okay. Please read it.
A. Out loud?
Q. No. To yourself.
A. Okay. I'm ready.
Q. I'll represent to you that that is the evaluation -- that's the City's evaluation of her.
A. Well, Dr. Schaefer's evaluation.
Q. That's the evaluation that the City requested by the City's --
A. Okay.
Q. -- by the person that the City wanted to have the evaluation completed.
A. Okay.

FREEDOM COURT REPORTING

Q. Do you have any evidence that any of the statements contained in Plaintiff's Exhibit 6 are wrong or incorrect?
A. No. I assume he did what he needed to do.
Q. All right.
A. But does he have any experience as a police officer?
Q. You said that you went through police officer training, tell me what training you went through.
A. Police academy.
Q. All right. And when was that?
A. 1977.
Q. Have you ever worked as a police officer?
A. Correctional officer, prison guard.
Q. When was that?
A. '77 through '80, I believe. Three years. '77, '78, '79, to begin with, and '80.

Q. All right. That's right after college?
A. Right after college, yeah.
Q. Before law school?
A. Yeah. I went to graduate school, and then while I was in graduate school, I was going -- I was working as a prison guard.
Q. What type of graduate school?
A. Criminal justice.
Q. Okay. Any refresher courses from the police academy since 1980?
A. I don't think so.
Q. Would you be qualified to be a police officer right now?
A. I would have to go back through some kind of refresher course I'm sure. Whatever that is.
Q. Okay.
A. I'm not sure. I may have to go back through the whole thing.
(Whereupon, Plaintiff's Exhibit No. 11 was marked

for identification.)
Q. I'm going to show you Plaintiff's Exhibit 11 and ask if you've seen that. I'm assuming you have.
A. Don't assume anything. I know what it is. Do you have any questions?
Q. Is that your signature or is this --
A. Once again, it's a stamp. But if my stamp appears on there, then I signed somewhere, okayed it.
Q. You approved it?
A. Yeah.
Q. What factors do you rely on when you approve this? What factors did you rely on when you approved this?
A. I just look up here and see what -- who it is and administrative leave with pay, employee placed on administrative leave with pay pending psychological evaluation, and I approve it, because I know she has a property interest in her job --
Q. That she has a what?

A. A property interest in her job, and she needs to be able to draw her money until we a probable cause hearing to justify otherwise.
Q. Well, did you at this point know that Deputy Stokes was -- I guess she was Corporal Stokes at that point, had attempted suicide?
A. I don't recall what I knew when I signed this. But I do know this is justifiable for me to approve it without me going any further.
Q. Am I correct that in Deputy Stokes' situation, you don't know whether you heard about this situation on the day before or at some point prior to making the decision to terminate Deputy Stokes?
A. I really don't know what your question was. But I don't recall if I knew anything about it or what I heard about it at the time, or surrounding the time that this happened.
Q. My question is slightly

different. Let me try to ask it better.
A. Okay.
Q. Prior to the day that you decided to terminate Deputy Stokes, do you know whether you knew anything about her situation, prior to that day?
A. I don't recall, but I probably didn't.
Q. You probably did or did not?
A. Before I -- The day I terminated her, did I know anything about her situation prior to the determination? I probably was -- do because I'm briefed on anything -- much less if it affects something like this in the police department. Somebody is going to make a statement to me: We had a police officer who attempted suicide this weekend or yesterday or last night, and that's how it's brought to my attention.
Q. Okay. But in this case you don't remember who or when?
A. I don't. I don't. I'm not

trying to beat around, I really don't.
Q. Okay.
A. I vaguely remember the case, vaguely. I can't say anything outside the questions to you.
Q. Do you remember whether you reviewed any documents at all in making the determination to terminate Deputy Stokes?
A. I really don't recall.
Q. Okay.
A. I feel really inept and stupid, but I'm not. I really don't recall. I really don't. I rely on so many other folks to do their job. And I know my signature appears there, but it appears there after it goes through a lot of different levels.
Q. Do you know whether when Deputy Stokes returned from leave and was put on the desk, whether she was given her weapon back?
A. No, I don't remember. I don't -- Not that I recall. I don't think I was

ever made aware of that.
Q. Would it bother you at all if she was given her weapon back?
A. Yes, it would.
Q. Tell me why.
A. Until -- Until there is a proven period of time there, I don't think she needs it for two or three reasons: One, harm to herself; and then, secondly, harm to others around her and her employees.
I know you are going to have a problem with that. I'm just telling you that based on my professional experience, my training, my legal training, my criminal justice training. And you're going to say, well, why and what details do I have to justify that. Nothing other than that experience.
Q. Well --
A. And the years of experience in this area.
Q. Well, what experience, exactly, do you have dealing with somebody

who has attempted to commit suicide? Tell me what actual experience you have with someone who has attempted to commit suicide.
A. You mean on a personal day-to-day level?
Q. On any level.
A. Well, I litigated a federal lawsuit where the person committed suicide, and I defended the physicians and the psychologists and psychiatrist, does that count? Or do you want to go into that much detail?
Q. I'm talking about someone who attempted to commit suicide, not someone who actually committed suicide.
Do you have any experience at all, professional or personal, with somebody who has attempted to commit suicide?
A. Man, I had domestic relations cases, and I'm sure there was some. And I don't recall them all, but I'm sure there was --
Q. Tell me any experience you can

remember you had with someone who has attempted to committed suicide?
A. I've had a number of cases where I was practicing law where suicide, either to the degree of attempt or thinking about it or depressed to the point of thinking seriously about it, all the way up to the federal lawsuit case that I defended for eight days in federal court.
Q. But that's somebody that committed suicide. I'm asking a different question.
A. Well, no, I'm trying --
Q. Excuse me. What experience do you have working with or assessing the employability of somebody who has attempted suicide?
MR. BOYLE: Object to the form.
A. I really don't know. I really don't know.
Q. Can you point me to or tell me about any experience you may have had about

somebody who attempted suicide, unsuccessfully attempted suicide, and their ability to work?
A. Are you looking for names of people?
Q. No. I want to know first of all, have you had any experience, personal or professional, with the employability of somebody who has attempted suicide?
A. You know, over the years -- I'm kind of old, and I've practiced law, and I've been in law enforcement, and I have come in contact with a number of people. Now, if you're asking me details and names and dates, I can't give that to you.
Q. I'm asking you whether you have had any -- Look, I'm as old as you are.
A. Not quite.
Q. And I've practiced law for twenty-eight years --
A. Okay.
Q. -- and in a variety of areas. And I can tell you whether I've had -- and

I'm a busy person too.
A. I'm sure you are.
Q. So I am asking you not whether you've ever arrested or seen somebody that was arrested or any of those factors.
A. Okay.
Q. The question is very narrow. Do you have any professional or personal experience with the -- that involves the employability, a person who has attempted to commit suicide who has gone back to their job, do you have any experience with that?
A. Not that I can recall sitting here.
Q. All right.
A. But I've dealt with a lot of folks that have had depression and several times attempted suicide. Now, do I recall when and where and who? No, I don't.
Q. Do you have any evidence, not speculation but evidence, that persons who attempt suicide are likely to shoot other people?

A. Do I have any evidence? You know, no.
Q. Other than your belief, do you have any evidence, any statistics, any evidence at all that persons who attempt suicide might harm others or will harm others?
A. The only -- I don't have hard evidence, and I'm not qualified to testify to the capability. I do know that -- Well, anybody knows that if a person's mentality is altered in any form, they may do something that they normally would not do. I know that. I think that's just my common-sense approach to life.
Q. You mean through mental illness?
A. Yeah. Mental illness, right.
Q. Well, sir, actually --
A. And I'm not an expert, so let me say that.
Q. I actually kind of many. Are you aware that most people who commit

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crimes, including shooting other people, do not have a label of mental illness?
A. I don't know that.
Q. Don't know one way or the other?
A. I don't know what you just said because I'm not an expert.
Q. Let me ask you if you have any evidence that contradicts this statement.
A. Okay.
Q. Most people who commit crimes, including shooting people, do not have a diagnosis of mental illness?
MR. BOYLE: Object to the form.
A. I guess. If you're the expert, I guess you're right. I'm not an expert. I'm just telling you based on my personal experience.
Q. Do you have any knowledge as to whether this next statement is true?
A. Okay.
Q. The percentage of persons who

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have been diagnosed with a -- with mental illness, percentage of persons that actually commit crimes or attempt to hurt people, is very low.
MR. BOYLE: Object to the form.
A. I don't know.
Q. Don't know one way or the other?
A. I don't know one way or the other, really.
Q. Do you think that there's a possibility that you may have been -- Strike that.
In making the determination to terminate Deputy Stokes, it sounds to me like you were, of course, relying on your own judgment in the situation; you were listening to, we know at least, Mr. Bridell, but you were also exercising your own judgment; is that correct?
A. In conjunction with all the evidence coming up to me and my executive

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assistant.
Q. Well, I'm still trying to figure out what all that evidence is. All I've been able to figure out so far is that you had a conversation with Mr. Bridell. What's the other evidence that you relied on?
A. Conversation based on the documents that he had in his hands, or whatever he had with him, whenever I signed it.
Q. What did he have?
A. I don't know. You're asking me, I really don't know. Documentation and I'm sure -- He always comes in with documentation for me to sign like this right here (indicating).
Q. Okay. But when you made the decision to terminate her, other than a conversation, can you tell us for certain any other paper that you looked at?
A. Not for certain.
Q. Okay.

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A. But there's always -- Our standard practice and procedure is for him to come in with his documentation, and he makes a verbal recommendation because I don't have time to sit there and go through a hundred pages of paperwork.
Q. Did you read anything with regard to Deputy Stokes?
A. Not that I know of, or that I recall.
Q. You don't remember whether --
A. His job is to review and make a recommendation to me.
Q. Sure. But he's not a lawyer; right?
A. No, he's not.
Q. And you don't know whether he knows what the law requires?
A. I don't know whether he does.
Q. Do you care whether -- I'm assuming the answer is yes. Do you care whether the City complies with federal law?
MR. BOYLE: Object to the

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form.
A. I always care whether the City complies with the law.
Q. Have you taken any steps to assure that your assistant Bridell gets legal training or at least that -- gets legal training to assure that he's advising you consistent with the federal law?
A. I trust his judgment and his experience and his educational background.
Q. My point is this --
A. Are you asking me do I make sure he goes to mental health training?
Q. No. Legal training to make sure that you comply with the federal law.
A. No.
Q. Okay. All right. I'm assuming -- We've already testified he's not a doctor. You just trust his judgment; right?
A. It would be nice if I had a mental health degree to make these type of decisions. But, you know what, our process

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is not that perfect.
Q. Sir, you are a lawyer; right?
A. That doesn't mean anything.
Q. You're a lawyer?
A. Sometimes that can be harmful.
Q. You're a lawyer; right?
A. Yeah.
Q. You're qualified to sit down and read the Americans with Disabilities Act.
A. Sure. If you have time.
Q. It doesn't take that much time.
A. Well, it takes a while.
Q. And you've got the ability -- You've got the ability to sit down and review the Family Medical Leave Act, do you not?
A. You have that time if you want to --
MR. BOYLE: If I may interject, can we keep this focused on Ms. Stokes, not whether or not the Mayor has

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time to read the ADA?
MS. MATTISON: Well he's just raised the issue that he doesn't have time, and we'll let the Court determine what his testimony is saying. But obviously, our position is that as the chief executive officer, he has an obligation to make sure that the City complies.
MR. BOYLE: Or he has an obligation to hire attorneys to advise him. And that's what he's testified he's done.
MS. MATTISON: He's also testified that he can't remember whether he talked to an attorney.
MR. BOYLE: Keep it focused on Ms. Stokes.
Q. But you don't remember Deputy Bridell advising you that --
A. He's not deputy, he's assistant.
Q. I'm sorry, that Assistant Bridell advised you that --
A. I don't recall.

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Q. You're going to have to let me finish the question.
You don't know whether Assistant Bridell advised you that the City's own doctor -- psychiatrist had cleared her to return to work, you just don't remember?
A. I don't remember.
Q. Would it have made a difference to you if you knew that --
A. No.
Q. No, it would not --
A. Absolutely not.
Q. Let me make sure I've got a clear question. It would not have made -- As I hear your testimony, it would not have made any difference to you whether the City's doctor cleared her to return to work; is that what you're saying?
A. No, it would not have made a difference, because of the nature of this act.
Q. Okay. Now, did you see --

Have you seen --
A. And, plus, I know that the physician is not a police officer, has no training as a police officer. And to me, all he's passing on is the capability of the patient he's diagnosing or treating. He doesn't know what a police officer has to do.
Q. How do you know that? Did you talk with him?
A. No. But I can assure you that most of them, ninety-nine percent of them, don't.
Q. Do you know for certain what this doctor knows?
A. I have no idea what he knows, and he doesn't know what a police officer knows.
Q. You don't know what he knows, do you?
A. No, I don't.
Q. You don't know whether this doctor has ever worked as a police officer?

A. No, I don't.
Q. Okay. So you don't know what knowledge he has, do you?
A. I have absolutely no knowledge of what he knows. And he doesn't know what we know.
Q. All right. And have you read Plaintiff's Exhibit 5, anybody show you that document?
Actually let me see that, that may be the wrong letter to give you.
Yeah, it is the wrong letter. Has anybody -- Did you see Plaintiff's Exhibit 7?
A. Have I seen it?
Q. Yes.
A. No, I haven't seen it.
Q. Would you read it, please?
A. Yeah.
MR. BOYLE: Off the Record.
(Off-the-Record discussion was held.)
A. Okay. I've read it.

Q. You testified you have never seen that document before?
A. To my knowledge, I haven't.
Q. Okay. Do you have any evidence if any of the statements contained in Plaintiff's Exhibit 7, are incorrect?
A. I just saw the document. I don't have any evidence to challenge it other than he's not a police officer and he doesn't know what a police officer has to do.
Q. Well, you don't know whether he knows what police officers have to do, do you?
A. No, I don't. But I don't know to what extent he knows what a police officer does.
Q. You don't know whether anybody at the --
A. This letter doesn't show that.
Q. You don't know of anybody at the City that attempted to contact these physicians to ascertain their knowledge

about police work, do you?
A. Not to my knowledge. I'm not sure that would have been their responsibility.
Q. And you don't know what the ADA requires, do you?
A. Did you read this?
Q. Sir, I'm the one that asks the questions. You know that, you're a lawyer.
A. I do.
Q. We're not going to argue here.
A. Okay. I'm not going to argue. But even in document 7 --
Q. We're not going to argue, please.
A. -- there's justification to terminate.
Q. Please. We're not going to argue.
A. I'm not arguing.
Q. All right. Have you seen Plaintiff's Exhibit --
MS. MATTISON: Would you keep

the tape on this please.
Q. Have you seen Plaintiff's Exhibit 9?
A. Is that a question to me?
Q. Yes. You're the only person I'm asking questions to on the Record.
A. Well, I wasn't sure.
Have I ever seen it?
Q. Yes.
A. Not to my knowledge.
Q. Okay. Any evidence that the information contained in that letter is incorrect?
A. No.
Q. Okay. Have you seen -- I asked you about 7, not 5; is that correct?
A. I don't know.
Q. Yeah. I'm sorry.
A. I mean, I'm confused.
Q. All right. Have you seen Plaintiff's Exhibit 5? And if you start reading that and it looks like the same thing, let me know, but I don't think it is.

There were two letters from the same person, around the same time.
A. I think I've read this before. I'm not sure. I'm talking about here.
Q. Okay.
A. Is there another document that has this information, almost verbatim?
Q. Well, this is just the same letter without a letterhead on it.
A. Here it is right here (indicating).
Q. They're different physicians.
A. They're different physicians. But they're almost verbatim, it sounds -- To somebody it sounds like boiler plate.
Q. Okay. Let the Record represent that -- Well, that's the same physician.
A. In fact, it's the same physician. Different dates, but the same paragraph, says the same thing.
Q. Yeah. Okay. Let's represent that the Mayor is looking at Plaintiff's

Exhibits 7 and 5 and also 6. So --
A. And then over here --
Q. All I'm asking you to do, sir, is please look at Exhibit 5, and tell me whether you've read that letter before by that person.
A. Probably not. The same information here sounds vaguely familiar from Exhibit 6.
Q. Perhaps because they're discussing the same person. But please read Plaintiff's Exhibit 5, if you will.
A. Okay. (Witness complies.) I've read it.
Q. Okay. Do you have any evidence that any of the statements contained in Plaintiff's Exhibit 5 are inaccurate?
A. No.
(Whereupon, Plaintiff's Exhibit No. 12 was marked for identification.)
Q. Okay. I'll show you

Plaintiff's Exhibit 12. I can't figure out whether one of these signatures is your signature or not. I don't think so, but I'm not positive.
A. No, I didn't sign this.
Q. Okay.
A. To my knowledge, I haven't seen it before, but I could have and don't recall.
Q. Okay.
A. You can read my signature.
Q. Pardon?
A. You can read my signature. You can't read those.
Q. Okay. What is Michael Bridell's background?
A. To my knowledge, he's got extensive time as a media/public relations type person, media. I have no idea what his other background is, other than media and he's been with me four years.
Q. What did he do with the media?
A. He was an anchor, news

anchorman. You'll have to ask him --
Q. Does he have a degree?
A. Yeah. Yeah.
Q. In what?
A. I don't know. I don't recall. I knew, but I don't recall.
Q. Who decided to hire him as your assistant?
A. I did. He's my appointee.
Q. Was he -- Did you -- Was he a friend?
A. Not --
Q. Was he an acquaintance?
A. Yeah. I know him. I've known him for a number of years prior to me hiring him. But he was not a buddy friend to hire him. He was a professional, I hired him to do a professional job.
Q. What is his job?
A. He's executive assistant to the mayor.
Q. What does he do?
A. Everything I ask him to do.

He supervises, overlooks ten departments, ten or eleven departments. I've got another executive assistant who handles the other ten or eleven departments.
Q. What did he do -- You said he was an anchor person?
A. Sure.
Q. What's his educational background?
A. I have no idea. Truly, I know he's got a degree, and I don't know what it's in.
Q. Bachelor's degree?
A. Yeah, I think so.
Q. Do you know whether he has any graduate degree?
A. I don't know. I don't recall. I don't think he does.
Q. How old is he, roughly? Forty, fifties?
A. Yeah. Forty, early forties.
Q. Okay. Now, you know that Corporal Stokes was denying any charges

against her, didn't you?
A. I didn't know that.
Q. You mean that your assistant didn't tell you that Corporal Stokes was denying the charges?
A. He didn't have to. The facts speak for themselves. He didn't have to tell me that she was denying that she attempted suicide. That was not necessary, I don't think, was it?
Q. You were aware that Corporal Stokes was denying the charges against her?
A. Was I aware of that?
Q. Yes.
A. Not that I recall. You know, not that I recall.
Q. The question is whether she was denying that she tried to commit suicide. The question was, do you know whether she denied -- She didn't resign, did she?
A. Not to my knowledge.
Q. Okay. So she was going

through the hearing procedures, which obviously meant that she was denying that she had violated any rules; correct?
A. No. I can't say yes to that. You're assuming I know what she's doing and why she's doing it. I can't assume that. I don't know why she fought the dismissal. I really don't.
Q. But you knew she was fighting dismissal?
A. No, I did not. I did not know she was fighting dismissal. I don't know that. I don't see that part of it.
Q. What did you know about her?
A. I knew something -- nothing about her other than she attempted suicide. I know nothing about her. I'm not trying to be ugly, I just didn't know her.
(Whereupon, Plaintiff's Exhibit No. 13 was marked for identification.)
Q. Let me show you Plaintiff's Exhibit 13. Did you look at this prior to

making the determination to terminate my client?
A. No, I didn't.
Q. Well, read it, please.
A. (Witness complies.) Okay.
Q. So it looks like you didn't see this paper either?
A. No, I did not.
Q. Is it possible that you didn't look at any documentation prior to deciding to terminate corporal Stokes?
MR. BOYLE: Object to the form.
A. No, it's not. I saw some documents in -- maybe not these documents, but I saw a package that I have to have in front of me to sign.
Q. Okay. Let me ask it this way: There may have been some pieces of paper in front of you.
A. Right.
Q. But you don't remember whether you read them or not?

A. I don't read them.
Q. You don't read them.
A. Unless I am the one conducting the hearing.
Q. Okay.
A. I don't have the time.
Q. All right. Now, you are aware that this matter is set for trial October 31, are you not?
A. No, I'm not.
Q. It's set for trial October 31.
A. Now, I am.
Q. Okay. Could I ask you not to wink at my cocounsel?
A. I didn't wink. Did I wink?
Q. Yes, you did. I saw you.
A. She nodded her -- she shook her head no. She shook her head no, and I resent you making facts that are not in evidence.
MR. BOYLE: Both sides, please.
Q. I've heard that you've been

winking at a number of people here, and it's not appropriate.
MR. BOYLE: I've not seen the mayor wink.
MS. MATTISON: I understand that.
A. Can I state for the Record, I've not winked at a single person that I know of.
Q. I've observed you.
A. Well you just made an accusation that I winked at your assistant, and she shook her head that I didn't.
MS. MATTISON: Let's take a break. I don't have a lot more.
MR. BOYLE: You don't have anymore, we --
MS. MATTISON: I do have more, but I don't have a lot more. Let's take a short break.
(Recess was taken.)
(The deposition was concluded at 3:30 p.m., June 30, 2008.)

REPORTER'S CERTIFICATE
STATE OF ALABAMA,
MONTGOMERY COUNTY,

I, Angela Smith McGalliard, Registered Professional Reporter and Commissioner for the State of Alabama at Large, do hereby certify that the above and foregoing proceeding was taken down by me by stenographic means, and that the content herein was produced in transcript form by computer aid under my supervision, and that the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings occurring on said date and at said time.

I further certify that I am neither of kin nor of counsel to the parties to the action; nor in any manner interested in the result of said case.

____
Angela Smith
McGalliard, RPR, CRR,
CCR Lic. No. 98

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